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Lisa Hajjar

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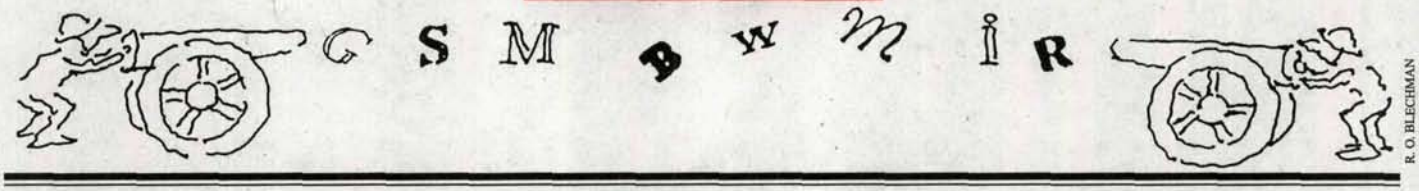

NORTHERN EXPOSURE

Toronto

■ Thanks to Alisa Solomon for "War Resisters Go North" [Jan. 3], on Jeremy Hinzman's application for refugee status in Canada. I am a Vietnam War resister at the War Resisters Support Campaign. Our goal is to convince the Canadian government to offer sanctuary to war resisters, as it did during the Vietnam War, when perhaps 60,000 of us came north. We believe that forcing war resisters to go through a drawn-out refugee process is inappropriate. US war resisters, after all, are conducting themselves exactly as Canada did in refusing to join the illegal Iraq War.

We are urging Canadians and Americans to help us pressure the Martin government to follow the example set by the Trudeau government, when war resisters were treated like other immigrants, not forced to submit refugee claims (www.resisters.ca). LEE ZASLOFSKY

TORTURERS 'Я' US

Bearsville, NY

■ Your January 3 lead editorial, "Prosecuting US Torture" (in Iraq) states, "the chain of evidence ends just a whisper away from Donald Rumsfeld." A recently declassified memo signed by the Defense Secretary removes even the whisper. It shouts direct complicity, if not criminal culpability. In December 2002 Rumsfeld approved the request by Defense Department officials to permit all Category II interrogation techniques, which included forced nudity and the use of dogs, as well as deprivation of light and sound stimulation, isolation for thirty days, the use of head hoods, removal of religious items, forced hair shaving and twenty-hour interrogation sessions. Granted, this approval was for use on prisoners at Guantánamo, but as the guards migrated to Iraq, so did the techniques. A brief glance at the infamous Abu Ghraib photographs reveals nothing that did not have Rumsfeld's prior approval; except, of course, the photos themselves. ALAN SUSSMAN

KILLING WITH KINDNESS

Lincoln, Neb.

■ Thank you, thank you, thank you for Katha Pollitt's "Subject to Debate" column about the Iraqi boy maimed by US cluster bombs, brought to the States for treatment and turned into a "feel good story" [Jan. 24]. Articles criticizing this war and the lies that have turned us into the good guys in this invasion/occupation are the exception rather than the rule. Every time the news reports two, four, ten Marines killed in Iraq, I think, "Why?" George W. Bush lied about every one of his reasons to send American troops to Iraq, and the country smiled stupidly and accepted it, even after the lies were shown to us. Just keep those magnetic ribbons on the SUVs. Bush should be facing impeachment rather than another four years. JEFF D. SCHMID

KISSINGER AND TELL

Vienna, Va.

■ In "Kissinger's Shadow Over the Council on Foreign Relations" [Dec. 27] Scott Sherman writes about a dispute among Kenneth Maxwell, the Council on Foreign Relations and the journal *Foreign Affairs*. Sherman includes the following quotation from an essay by Maxwell, who asserts: "Kissinger had sought to interfere before in *Foreign Affairs* during the editorship of his [James Hoge's] predecessor William ("Bill") Hyland. He [Hoge] said that he did not think that the breach that resulted between Kissinger and Hyland, who were old friends, had 'ever been fully repaired.'"

This is dead wrong. First, Henry Kissinger never ever interfered with my editing of *Foreign Affairs* (1984–92). Second, there was never any "breach" between me and Henry Kissinger. We have remained good friends for over thirty years. We are still good friends.

WILLIAM G. HYLAND

SHERMAN REPLIES

Brooklyn, NY

■ William Hyland's quarrel is not with Kenneth Maxwell or *The Nation* but with his successor at *Foreign Affairs*, James Hoge. It was Hoge, and not Maxwell, who expressed dismay about Kissinger's interference at *FA* during Hyland's editorship. Maxwell simply reproduced Hoge's remark, which was uttered at a private meeting between the two men on January 30, 2004. Indeed, Hoge himself has not budged from his assertion: More than a month after the publication of Maxwell's meticulously documented, 13,000-word paper, Hoge has yet to contest or deny a single fact in it, including the passage about Kissinger quoted in Hyland's letter.

SCOTT SHERMAN

BEDFELLOWS OF 1956

Dover, NH

■ Patricia Williams's evocation of E.B. White's ode to his dog Fred ["Diary of a Mad Law Professor," Dec. 27] comes, as Williams would tell you, from a 1956 *New Yorker* essay called "Bedfellows." I've thought of that essay often this past year, in anguish. It begins, "I am lying here in my private sick bay…watching starlings from the vantage point of bed. Three Democrats are in bed with me: Harry Truman (in a stale copy of the *Times*), Adlai Stevenson (in *Harper's*), and Dean Acheson (in a book called *A Democrat Looks at His Party*)." White goes on to talk about Eisenhower and Kennedy as well.

About Eisenhower he writes, "The matter of 'faith' has been in the papers again lately. President Eisenhower…has come out for prayer and has emphasized that most Americans are motivated (as they surely are) by religious faith. The *Herald Tribune* headed the story, 'president says prayer is part of democracy.' The implication in such a pronouncement, emanating from the seat of government, is that religious faith is a condition, or even a precondition, of democratic life. This is just wrong. A President should pray whenever and wherever he feels like it…but I don't think a President should advertise prayer. That is a different thing. Democracy, if I understand it at all, is a society in which the unbeliever feels undisturbed and at home. If there were only a half a dozen unbelievers in America, their well-being would be a test of our democracy, their tranquility would be its proof.... I hope that Belief never is made to appear mandatory.... I distrust the slightest hint of a standard for political rectitude, knowing that it will open the way for persons in authority to set arbitrary standards of human behavior.... My wife, a spiritual but not a prayerful woman, read Mr. Eisenhower's call to prayer in the *Tribune* and said something I shall never forget. 'Maybe it's all right,' she said. 'But for the first time in my life I'm beginning to feel like an outsider in my own land.'"

Of Acheson, White writes, "I believe, with the author, that security declines as security machinery expands. The machinery calls for a secret police. At first, this device is used solely to protect us from unsuitable servants in sensitive positions. Then it broadens rapidly and permeates nonsensitive areas, and finally, business and industry.... A secret-police system first unsettles, then desiccates, then calcifies a free society."

Patricia Williams was astute to bring White's essay to our attention again. CAROLE S. APPEL

WILLIAMS REPLIES

New York City

■ What a wonderful letter. This is why I love *The Nation* and its readers—to say nothing of why I love the form of the essay, whether Emerson or E.B. White or Elie Wiesel. White is certainly the single most influential writer on my own thinking, particularly the pieces he did during the McCarthy era and, not coincidentally, during my formative *New Yorker*-reading years. PATRICIA J. WILLIAMS

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EDITORIALS

Iraq's Lost Election

In the run-up to the January 30 election in Iraq, the prospects for a fair and credible outcome have steadily diminished. As Dexter Filkins of the *New York Times* reported, rather than the normal democratic ritual of voters and candidates, what Iraqis know is "a campaign in the shadows, where candidates are often too terrified to say their names. Instead of holding rallies, they meet voters in secret, if they meet them at all. Instead of canvassing for votes, they fend off death threats." Filkins further reported: "Of the 7,471 people who have filed to run, only a handful outside the relatively safe Kurdish areas have publicly identified themselves. The locations for the 5,776 polling places have not been announced, lest they become targets for attacks."

As conditions deteriorated, it became harder for the Bush Administration to spin the upcoming poll to choose an Iraq National Assembly as a major step toward restoring security. Gen. George Casey, commander of coalition forces in Iraq, predicted more violence on election day and "for some time" thereafter, while a new US intelligence estimate foresees the elections being followed by more violence and possible civil war.

The June 28 handover of sovereignty to the interim Iraqi government headed by Prime Minister Iyad Allawi failed to bring order to the country. The Allawi government was unable to achieve legitimacy, to woo disgruntled Sunnis into the political process or to recruit a reliable Iraqi security force. The insurgency has grown to an estimated 200,000 fighters, with most of Baghdad now hostile terrain. Offensives that military commanders claimed would crush Baathist strongholds produced at best a fleeting success while further damaging the US image. Falluja was destroyed and most residents have become long-term internal refugees.

Iraq's largest mainstream Sunni Muslim party has already pulled out of the elections, saying that the violence plaguing areas north and west of Baghdad makes a free and fair vote impossible. The Kurds and the Shiites will make up the majority of voters, skewing the results and leaving the Sunni Arabs underrepresented in the new National Assembly, which will choose a temporary government and draft a constitution. Sunnis will have little incentive to turn against the insurgency and to join the political process. Even if the victors in the election are unusually magnanimous in their treatment of the Sunnis and far-sighted in their vision for the country, the occupation will remain a rallying cry for insurgent forces and thus an obstacle to national unity.

As long as the occupation continues, any Iraqi government or constitution will be tainted and incapable of producing the compromises necessary for a stable and unified Iraq. Therefore, for the sake of Iraq's future and the safety of our young men and women, the United States must begin an orderly withdrawal, coordinated with stepped-up US and international economic assistance. We recognize that further violence and internal fighting among Iraqis may follow, but to believe that a continuing US military presence can prevent this is naïve or disingenuous; it will, rather, contribute to the instability. The best long-term outcome is for Iraqis to regain control of their own country and sort out their own future.

An increasing number of Americans recognize the worsening situation. In a recent Gallup poll, nearly half of those responding called for either US troop reductions or complete withdrawal. The politicians are beginning to hear them. Sixteen House Democrats recently signed a letter urging a total pullout. "This is the only way to truly support our troops," the group said. Senator Edward Kennedy reportedly will soon call for withdrawal by the end of the year. Former National Security Adviser Brent Scowcroft warned that the election has "great potential for deepening the conflict" and said it was time to ask "whether we get out now." Conservatives from the Cato Institute to Pat Buchanan's *American Conservative* have called for withdrawal. The antiwar movement is regrouping.

In February the Administration will demand from Congress a stunning $100 billion supplemental appropriation to maintain

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COMMENT

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US military forces in Iraq. The growing number of Americans who see an Administration blindly leading the nation toward more death and destruction should tell their representatives, "No more money for war!" That would be the best example of democracy we could offer the Iraqi people.

COMMENT

Babushkas vs. Putin

In February 1917 bread riots, led by women, many of them elderly, broke out in the center of St. Petersburg. The protests quickly led to the sudden collapse of the czarist regime and eventually, later that year, to the Bolshevik Revolution.

In January 2005 few Russians anticipate actual revolution—or even a change in Kremlin leadership. But in one of the most significant developments in Russia since 1998, when disgruntled coal miners went on strike and blocked railroad tracks to protest unpaid wages, thousands of pensioners are demonstrating across the country, protesting the abolition of a wide range of social benefits. What makes these protests potentially more powerful than those of 1998 is that so many Russian families have a pensioner—often a beloved babushka caring for the grandchildren. And adding poignancy to these developments, many are World War II veterans, whom Putin had promised less than a month before to honor during this sixtieth anniversary year of the Soviet victory.

The source of the pensioners' anger is a law that came into force on January 1 replacing longstanding social benefits—free public transportation and healthcare as well as heavily subsidized medicine, rent, utilities and other basic services—with inadequate monthly cash payments. The new legislation affects the most vulnerable, Russia's 34 million pensioners, veterans and disabled people. The spreading protests, the largest, angriest and most passionate since Putin came to power in 2000, began quietly on January 9 and now stretch from Russia's Far East to Moscow and even to Putin's hometown, the still-iconic capital of 1917, St. Petersburg. On January 10 pensioners blocked the highway from Moscow's city center to one of its main international airports; the *Russki Kurier* newspaper reported that "the angered old people had to be dispersed with the help of the paramilitary forces." By that weekend, an estimated 10,000 pensioners and veterans jammed the streets of St. Petersburg. In a sign of the pensioners' radicalization, many are now linking political demands to their calls that benefits be restored; at the St. Petersburg march, protesters shouted "Shame!" "Power to the People!" and "Putin—resign!" Similar protests have erupted in scores of towns and cities, and at most of them people have massed in the main square calling for Putin's resignation.

So far the security forces have barely intervened, and—ominous for the government—there are reports that in several towns local military and police joined the protesters. There have also been outbreaks of violence. In Nizhny Novgorod two pensioners beat up a female trolley conductor, and according to Channel 3 TV,

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dozens of trolley conductors across the country have been assaulted. Perhaps because these protests are hard to hide, Russia's normally tightly controlled television has broadcast striking images of crowds of angry elderly women squaring off against policemen.

The conventional view is that these spontaneous and somewhat chaotic protests will not pose a serious challenge to the stability of Putin's regime—unless, through strategic leadership and ties to opposition parties, the pensioners' protests ignite a general strike. Yet that view ignores the fact that few anticipated the ferocity of these protests. As late as December, a respected Russian analyst argued that "the Russian masses, even the most destitute, have not sent any signal of their determination to confront the regime." On the other hand, for months, leading opposition commentators and politicians have talked about "the despair syndrome," suggesting that Russia is on the verge of an explosion. In December, fiery nationalist Alexander Prokhanov characterized the situation as "prerevolutionary," and he has called for Putin's removal.

It's clear that the deepening political and economic crisis threatens Putin's Teflonlike popularity. In one poll taken a few days into the protests, 97 percent of people blamed Putin for the crisis. Another showed that trust in his leadership has plummeted. "Putin may have been adept at liquidating his political opposition as well as the institutions that limit his presidency's power," a Russian commentator observed, "but he forgot about Russia's people."

The central question now is, Will pensioners be joined by other (including younger) discontented segments of Russian society—unpaid schoolteachers, miners, soldiers, doctors and university students, whose already meager stipends are also being cut? In the past few years teachers and doctors have staged small-scale strikes over unpaid or miserly wages, and nearly destitute officers and soldiers are also grumbling about new cuts in their medical and housing benefits.

On January 17 the Kremlin broke its panicky silence: Putin promised a moderate increase in pensions and blamed federal and regional officials for poor implementation of the changes. But the government's token concessions have done little to assuage pensioners or defuse the protests. A leading parliamentary deputy has predicted, "The demonstrations will reach their peak in February, when people will have to pay their utility bills for the first time."

Another February revolution? Unlikely. But for now, the elderly of Russia are showing that they've had it with a government that treats them without the dignity they've earned. Babushkas of Russia—Unite!

KATRINA VANDEN HEUVEL

Party Cannibals

In December the leaders of the Democratic Leadership Council, Al From and Bruce Reed, published an op-ed in the *Wall Street Journal* about what the Democrats had to do to attract heartland voters ("We need to be the party of Harry Truman and John Kennedy, not Michael Moore"; help "parents protect their children from a coarsening culture"; "expand opportunity for all who are willing to work for it"). Angry letter writers to the *Journal* just saw two more crypto-Bolsheviks who "cannot resist the impulse to engage in a bit of class warfare," in thrall like all the rest to "special-interest constituenc[ies] such as extreme environmentalists."

On the one hand, it's a sign of the ripening strangeness of the right-wing imagination. On the other, the letters reveal a grain of truth. The DLC is made up of centrists, not conservatives, just as it claims, and that's why the *Journal*'s readers hate it. Let's be generous in one regard: It's fought the Administration on more than a few issues in the past year, from climate change to Social Security reform, honestly and in the open.

Would that it were so honest and in the open when it came to fighting Democrats. The main problem with the DLC is not that its ideology mirrors the Republicans'. It is that its tactics do. At the DLC's annual convention this year, From ("his voice intense with emotion," according to the *New York Times*) said, "The DLC has saved the Democratic Party once, and we're bound to do it again." As the battle heats up between party centrists and progressives for the February 12 election for Democratic Party chair, a glance at the DLC's history shows that From's definition of "saving" looks a whole lot like that of the field commanders who thought they'd rescue Vietnamese villages by sanctioning their destruction.

Consider what happened in 1995, when the DLC's Progressive Foundation, angry that so few DLC-ers were nominated to high positions in the Clinton Administration and at Clinton's full-on push for universal healthcare, inaugurated something called the "Third Way" project. The DLC's historian, Kenneth Baer, in his book *Reinventing Democrats*, says, "There is some evidence that this project was to be the beginning of a third party movement." DLC funder Michael Steinhardt even approached a senator to run against Clinton in the 1996 primaries.

It might seem strange that the DLC would cut itself loose from Bill Clinton, the very figure around which it now defines its identity. Par for the course, actually. The DLC claims politicians as its own when it suits it, jettisoning them when it doesn't, all the time

CALVIN TRILLIN

On the Confirmation of Condoleezza ('Mushroom Cloud') Rice as Secretary of State

The mushroom-shaped cloud Condi spun
As being the next smoking gun
Was hooey invented to show
Attacking Iraq's apropos.

She'll be Secretary of State.
The senators need no debate.
Approval's considered a must.
They want to have someone they trust.

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COMMENT

and without remorse—just look what happened to Howard Dean.

In fact, the DLC was born in contempt for the decisions of the Democratic Party. In 1984 Walter Mondale's defeat looked inevitable. So Al From chose to exploit the party's moment of maximum vulnerability to maneuver a takeover of the Democratic National Committee. It was only when From and his allies' candidate for DNC chair lost the next year that they took their Trojan horse out into the open. They gave their tendency a name (one sounding close enough to "DNC" to make it seem all but an official party organ) and a public mission: It would serve as the party's vehicle for "ideas, not constituency groups." The idealism was vouchsafed by a $1,000 membership fee, with private retreats with business-friendly pols like Virginia Governor Chuck Robb available for those willing to pay extra cash on the barrelhead.

Behavior like this soon started to smell to other Democrats. So From effected an image makeover. By 1986 the DLC was calling itself a "philosophically diverse group" with no particular ideological interests whatsoever, successfully seducing liberals like Representative Sander Levin of Michigan into membership. That, at least, was the popular front. The other part of its war was pushing for a Southern regional primary explicitly designed to produce an anti-liberal presidential nominee.

Al From cynically told his loyalists to endorse both Al Gore, whom he actually preferred, and Dick Gephardt, because he looked like the favorite. When that failed—Jesse Jackson won Super Tuesday in 1988—things got really creepy. From threatened a sort of nuclear option if the party platform didn't suit him: He'd force a brokered convention—that favorite tactic of the old political bosses in which no one candidate wins enough delegates and backroom deals are needed to break the logjam. He buttered up the potential candidates with oily flattery—writing to Sam Nunn in one secret memo, "We're at the point where the revolution we've started requires a leader to take it over the top."

Leninism for losers. Once the organization raised enough corporate cash to be financially sound, it was rebranded as a "political movement." Potemkin Village "conventions" were held; the 1991 event, where lobbyist "delegates" from all fifty states voted on a premasticated "progressive agenda for the Democratic Party," was partially funded by the Republican CEO of Nestlé. Simultaneously, that same two-step hustle, the popular front and the work in the shadows: When the Progressive Policy Institute, the DLC's new think tank, was founded, its president, Will Marshall, described it as an "analytic guerrilla group." It was built on the model of the Heritage Foundation (From and Marshall consulted Heritage's director, Ed Feulner, for advice)—not as an honest brokerage for research but as a factory for marketing policy positions arrived at in advance (and disseminated in a magazine then called the *Mainstream Democrat*). Then, in preparation to influence the 1992 presidential race, the DLC formed chapters in every state with a major primary, in order, said Reed, to "create the illusion of a national movement." Lovely, no?

This year, before pushing its line that the Democratic Party had to reform itself in the DLC's image to recover from a failed presidential campaign—its message after every failed presidential campaign—it got word out in the press that Democrats thankfully no longer sniped among themselves after elections. That put it in position to label liberals as divisive when they criticized Kerry's objectively centrist presidential campaign. Thus the DLC's divisiveness could be framed as a bid to end all the divisiveness.

It's clever stuff. But it also plays into George W. Bush's hands. Splitting the difference with Republicans to neutralize attack from Republicans never works; the response to From and Reed's oped in the *Journal* shows that. Clinton's entire second term shows that, too, in spades—even a policy agenda so devoid of liberalism it warmed the cockles of every DLC heart was frozen in its tracks by "scandals" drummed up by Republicans convinced Clinton was the liberal devil incarnate.

In fact, everything DLC-like that Clinton did served to boost his own popularity at the expense of the party's strength. The idea that the safest way to win an election is with 50 percent-plus-one of the votes, by taking your base for granted and nosing yourself over the line by appealing to some notional "center" is not a "safe" strategy for the Democrats. Indeed, the more this game is repeated, the less safe it becomes, because the very ideological timidity it requires erodes the base. It just isn't a convincing story to take to the electorate. Which may be why the DLC has to promote it by hook and by crook. RICK PERLSTEIN

Rick Perlstein, author of Before the Storm: Barry Goldwater and the Unmaking of the American Consensus, *is at work on a book about Richard Nixon and the 1960s.*

In Fact . . .

CAN CBS EVER BE SORRY ENOUGH?

■ Let's see if we understand how our deregulated, free-enterprise media system works: In the heat of the election *60 Minutes Wednesday* went with a story alleging that when he was a lieutenant in the Texas Air National Guard in the early 1970s, George W. Bush received preferential treatment. The proof: memorandums purportedly from the files of his commander, Lieut. Col. Jerry Killian, showing young Bush's demands for special treatment. Then the rains came: Some bloggers said that the documents were forged, Dan Rather & Co. said they weren't, Killian's secretary Marian Carr Knox said (a) that they do not look like documents that she typed, but (b) their content was consistent with other things her boss said at the time. As a result of the criticism, CBS appointed a blue-ribbon commission headed by a former US Attorney General and the former CEO of The Associated Press to determine the facts. The commission found problems with the way *60 Minutes Wednesday* went about its work, and the obstinacy with which Rather & Co. defended their integrity. But it said it was "not able to reach a definitive conclusion as to the authenticity of the Killian documents" and that it found no evidence of political bias. For this, four top CBS employees were fired. Query: If the commission had determined the documents *were* forged and that Rather & Co. *were* politically biased, what would CBS have done? Make CBS News president Andrew Heyward watch sixty hours of Bill O'Reilly? Hire Ann Coulter as Dan Rather's personal political trainer? Send Rather's production team to Rush Limbaugh for sensitivity training?

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Would you send these women to jail?

I had an abortion.
I had an abortion
I had an abortion.
I had an abortion.
I had an abortion.
I had an abortion.
I had an abortion.
I had an abortion.

This poster is part of the I Had An Abortion project. [illegible] for more information. A screening and panel discussion of the film Speak Out! I Had An Abortion will be held on January 20 from 7:00-9:00 pm at the Tribeca Screening Room, 375 Greenwich Street. Tickets are $15. RSVP at rsvp@[illegible].

www.ihadanabortion.org

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JONATHAN SCHELL

What Is Wrong With Torture

The war in Iraq has given birth to an issue that may one day be seen as more important than the war, the question of torture. Just as H.J. Res. 114, by which Congress authorized the war, was the key vote for that conflict, so now the vote whether to confirm White House Counsel Alberto Gonzales as Attorney General will very likely be the key vote in regard to torture. At the recent Senate Judiciary Committee hearings on the nomination, the senators seemed almost as interested in flattering one another as in examining the nominee. The former committee chair, Senator Orrin Hatch, did not thrust a lighted cigarette into the ear of Senator Patrick Leahy. Senator Joseph Biden did not "waterboard" Senator John Cornyn—that is, he did not strap Senator Cornyn to a board and thrust his head under water, holding him there until he believed he was being drowned. Senator Arlen Specter did not force Senator Russ Feingold to eat his lunch from a toilet. Senator Biden did not strip Senator Mike DeWine naked, attach a leash to his neck and force him to crawl around the hearing-room floor. Senator Specter did not kill Senator Edward Kennedy and then pose for a photograph next to his corpse, making a thumbs-up sign. On the contrary, the senators showered one another with compliments. Senator Hatch held up Senator Specter, the new chairman of the Judiciary Committee, as "one of the best lawyers we've had serve in the United States Senate." Senator Biden agreed, calling Senator Specter "the finest constitutional lawyer in the country—maybe not the country, but in the Senate (*laughter*)." Senator Leahy called Senator Hatch "one of the most experienced lawyers ever to serve." The senators praised Gonzales, too. His "beautiful family" (Specter), including his mother-in-law, was introduced and feted.

And yet the acts mentioned above, all performed by US forces upon prisoners in Iraq or elsewhere, were the actual substance of the hearing. Under the President served by Gonzales, torture has become endemic, and the lines of connection between the nominee's advice and those acts were clear and undeniable. In a memo to the President, Gonzales advised that the Geneva Conventions did not apply either to Al Qaeda or Taliban soldiers in Afghanistan. He opined that if the conventions were set aside by the President, any soldiers accused under the US War Crimes Act might defend themselves against the charges of having committed war crimes under US Code Section 2441 of American law. He wrote the President, "Your determination [that the Conventions didn't apply] would create a reasonable basis in law that Section 2441 does not apply, which would provide a solid defense to any future prosecution." In other words, his advice was to throw out international law so torturers could escape the consequences of US law. He solicited and participated in the preparation of a memo in the Justice Department that redefined torture only as the kind of abuse that might destroy bodily organs or kill the victim. That same memo stated that the President alone has the power to make rules for the treatment of prisoners, although the Constitution declares that "Congress shall have power to...make rules concerning captures on land and water." He oversaw an interdepartmental discussion in which waterboarding and other forms of torture were condoned.

The senators' language regarding torture reflected, with exceptions, the horror of the matter as dimly as their flowery praise of one another. None, it is true, went as far as to suggest that restrictions on the abuse of prisoners were "unilateral disarmament," as a recent *Wall Street Journal* editorial did. Most of the senatorial defenders of Gonzales's record concentrated on denying his responsibility for one or another of the damning memos. More striking were the arguments against torture by those skeptical of the nomination. Two dominated. One was that torture hurts the image of the United States in the world. In the words of Senator Lindsey Graham, "I can tell you that it is a club that our enemies use, and we need to take that club out of their hand." Or in the words of Senator Herb Kohl, "winning the hearts and minds of the Arab world is vital to our success in the war on terror," and "Photographs that have come out of Abu Ghraib have undoubtedly hurt those efforts." The second argument was that enemy forces would torture US forces in retaliation. In Biden's words, "This is about the safety and security of American forces." Even Gonzales, who declined at every opportunity to repudiate the policies that had led to the torture, was ready to agree that Abu Ghraib had harmed the image of the United States.

But are these the fundamental reasons that torture is unacceptable? Can this nation now understand pain only if it is experienced by Americans or, through some chain of consequences, it rebounds upon the United States? Have all the people in the world but Americans become invisible to Americans? Torture is not wrong because someone else thinks it is wrong or because others, in retaliation for torture by Americans, may torture Americans. It is the *torture* that is wrong. Torture is wrong because it inflicts unspeakable pain upon the body of a fellow human being who is entirely at our mercy. The tortured person is bound and helpless. The torturer stands over him with his instruments. There is no question of "unilateral disarmament," because the victim bears no arms, lacking even the use of the two arms he was born with. The inequality is total. To abuse or kill a person in such a circumstance is as radical a denial of common humanity as is possible. It is repugnant to learn that one's country's military forces are engaging in torture. It is worse to learn that the torture is widespread. It is worse still to learn that the torture was rationalized and sanctioned in long memorandums written by people at the highest level of the government. But worst of all would be ratification of this record by a vote to confirm one of its chief authors to the highest legal office in the executive branch of the government.

Torture destroys the soul of the torturer even as it destroys the body of his victim. The boundary between humane treatment of prisoners and torture is perhaps the clearest boundary in existence between civilization and barbarism. Whether the elected representatives of the people of the United States are now ready to cross that line is the deepest question before the Senate as it votes on the nomination of Alberto Gonzales.

Jonathan Schell is The Nation Institute's Harold Willens Peace Fellow.

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ALEXANDER COCKBURN

Harry's Travails

Imagine, in the same month as the death of the muse of high camp, Susan Sontag, we have England in an uproar about Prince Harry and his silly armband. All this, while *The Producers* is playing in London to packed houses. They're even talking of banning the swastika. That'll be one in the eye for Indian symbols! The airlines will have to start handing out reminders to the Navajo before they land at Heathrow.

The theme of the party where some jerk snapped Harry was Colonialists and Natives. I suppose the lad could have gone as Lord Curzon or Lord Kitchener, but most of Harry's male relatives still have to dress like that anyway for formal military occasions. The Afrika Korps uniform was a nice idea and a lot more original than putting some shoeblack on his face and going as a native.

How bitterly Harry must regret not dressing up as Captain Cook. Then he could have had an enjoyable Tour of Contrition to the Antipodes and the Pacific region, apologizing to the Maoris and Hawai'ians for insensitivity to genocide. Who wants to go to Auschwitz at this time of year?

Of course, the leaders of major Jewish organizations have had a field day, broadcasting their shock and dismay on an hourly basis and telling Harry to jog round the Auschwitz perimeter another couple of times. Moral reprobation from these folk about fancy dress looks threadbare in an age when Israeli soldiers force a Palestinian to play his violin at a border crossing.

How come Sharon didn't send those soldiers to Auschwitz to apologize for having forgotten that it's only sixty years since Jews with fiddles in Eastern Europe were being told by genuine Nazi murderers to hop about and play a few tunes? How come Sharon doesn't have to apologize for anything?

"Where do you stop with the taboos," wrote David Ball to the *Daily Telegraph*. "Do you not dress as a Dominican Friar, whose order was responsible for the persecution and death of 1000's of 'Heretics' i.e. people with different views, in the Middle Ages. Do you not dress as a US cavalryman, who assisted in the systematic virtual destruction of the indigenous native population of America.... I don't think Harry was going around shouting neo-Nazi slogans and giving Heil Hitler salutes."

I'll buy that, same as I buy the view of the *Pravda* editorialist who wrote: "Prince Harry turned up in an Afrika Korps uniform—who better to mock than the German colonials under Hitler, the greatest imperialist project in human history since perhaps Genghis Khan?... if this young man was invited to a Colonials and Natives party, what was he supposed to wear? A pink ballet dress, to be accused of being a fairy, a trans-sexual or a cross-dresser?"

Rommel was a perfect choice. The English have always had a soft spot for the Desert Fox, the Good German outgeneraled by Montgomery and then forced to commit suicide by Hitler. Actually, Rommel was outgeneraled by the matrons who ruled over matters of hygiene at the schools attended by the British officer class. How well I remember the matron at my own school, Heatherdown, who used to line us little boys up and then clasp our testicles in her chill hand and demand that we cough. I've never been quite sure why; maybe to detect signs of incipient syphilis in case we 8-year-olds had been infected by the girls at Heathfield, on the other side of a wall even more forbidding than the one the Israelis are running through the occupied territories.

It was these matrons, so I was recently reminded by Mark Harrison in the Christmas issue of *Oxford Today*, who instilled in British officers the importance of hygiene. In the Western Desert of Egypt in 1942, Harrison writes in his essay "Medicine and Victory," because of "proper waste management" the British Army "enjoyed a marked and consistent advantage over their opponents, as sickness rates were 50-70 per cent lower than in the German forces. By the time of the climactic battle of El Alamein, the Afrika Korps carried the burden of 9,954 sick out of a total strength of 52,000." Out of 10,000, the Panzer division had slightly less than 4,000 men fit to fight.

All this gives fresh resonance to the phrase "dirty Germans." Col. H.S. Gear, assistant director of hygiene in the British Army, claimed the Germans' positions were "obvious from the amount of faeces lying on the surface of the ground." The official historian of the campaign, F.A.E. Crew, wrote, "It is not improbable that the complete lack of sanitation among both the Germans and the Italians did much to undermine their morale in the Alamein position." The matrons won! Prince Harry should have gone to the party dressed as Matron, or Matron's softer antecedent in the lives of these young men: Nanny, the emotional rock to which many an upper-class lad clung for the rest of his life.

All this talk of matrons and nannies brings me to Harry's great-great-uncle Edward VIII (titled, after abdication, the Duke of Windsor), a keen admirer of Hitler, as pious British reprovers of Prince Harry have not failed to point out. Wallis Simpson, herself a Nazi agent, won the Duke's eternal affection by understanding exactly what fancy dress he really craved.

In his wonderful *The Duchess of Windsor* (recently reissued with sensational new material along with his equally gripping *Howard Hughes*) my friend Charles Higham quotes the Duke's equerry, Sir Dudley Forwood, who used to peer through the bedroom keyhole, as saying of Windsor that "it is doubtful whether he and Wallis ever actually had sexual intercourse in the normal sense of the word. However, she did manage to give him relief. He had always been a repressed foot fetishist, and she discovered this and indulged the perversity completely. They also, at his request, became involved in elaborate erotic games. These included nanny-child scenes: he wore diapers, she was the master."

Harry could have gone to that party in diapers, or even as a foot. But instead he tried to be a manly man and went as a soldier, and got into a whole heap of trouble. He'll know better next time. Even if he'd gone as a 1942-vintage *Luftnachrichtenhelferin*, as fetchingly depicted in my treasured copy of *Women at War, 1939–45*, probably no one would have batted an eye. ■

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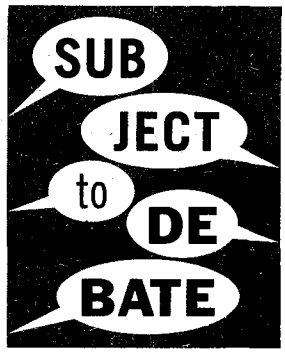
KATHA POLLITT

Jesus to the Rescue?



Can a dose of Christianity stiffen the Democrats' spine, win back Kansas and bring people power to the anemic left? In the wake of the 2004 election, quite a few powerful liberals are wondering if they can frame their politics as "faith" the way the right has so effectively done. One of the people the Democrats have invited to tell them how to go about this is the evangelical Protestant activist Jim Wallis, a founder of the antipoverty group Call to Renewal and editor of the magazine *Sojourners*. Wallis, an early supporter of Bush's faith-based initiative, is on a roll. In late November he appeared with Al Sharpton, Jerry Falwell and the Rev. Richard Land on the notorious all-male "values" debate on *Meet the Press*. His new book, *God's Politics*, currently hovers at the top of the Amazon list.

I admit I approached the book with a bit of an edge, having just seen the new film version of *The Merchant of Venice*, in which the callous anti-Semitism of the Venetian smart set is rendered with unusual vividness. This led me to further gloomy instances, from the Crusades and the Salem witch trials to the Magdalene laundries and the anti-evolution policies of the Dover, Pennsylvania, school board. After all, the case for Christianizing progressive politics is not just about quoting the Bible more, or framing healthcare as a religious value. It's about lowering the wall between church and state, giving churches more power, more rights and more taxpayer money. The argument in favor often boils down to majority rule—most Americans claim to be devout Christians—but that's actually the argument against it. Look what Christians did when they had the chance! Preventing religious wars and godly tyranny was the original purpose behind the Founding Fathers' ban on the establishment of religion, and subsequent history has hardly outmoded their wisdom.

Wallis draws a sharp line between the God-on-our-side Christianity responsible for countless evils and the social-justice kind he favors. Yet the triumphalism and self-righteousness he condemns in the former crops up throughout *God's Politics*: "religion" and "faith" are usually synonyms for Christianity, and Christianity mostly means evangelical Protestantism. Evangelicals get most of the credit for everything good in US history, from women's suffrage to the civil rights movement. This would surprise skeptics like Elizabeth Cady Stanton, who spent her life battling scriptural arguments for male supremacy, and the secular Jews and leftists who made up so much of the civil rights movement's white base. And what about the opponents of women's rights and racial integration? Weren't a lot of *them* evangelicals too? At times Wallis seems to be in a kind of denial: If it's wrong, it isn't truly evangelical, therefore evangelicalism is purely good. Today's robust evangelical right is the fault of—wait for it—"secular fundamentalists"! Blame it on the ACLU.

Wallis's God calls on Christians to fight racism, poverty, war and violence—what's wrong with mustering support for these worthy goals by presenting them in the language spoken by so many Americans? The trouble is, the other side does that too. You can find anything you want in the Bible—well, almost anything. Thus, the more insistently people bring Christianity into politics, the more political argument becomes a matter of Christian hermeneutics. Does God say gays should be executed or married? "Spare the rod" or "suffer the little children"? I don't see how we benefit as a society from translating politics into theology. We are left with the same debates, and a diminished range of ways in which to think about them. And, of course, a diminished number of voices—because if you're not a believer, you're out of the discussion. In this sense, Wallis's evangelicalism is as much a power play as Pat Robertson's.

And Wallis is as much a power player. By a remarkable act of providence, God's politics turn out to be curiously tailored to the current crisis of the Democratic Party. God, like many of the black, Hispanic, Catholic and working-class voters who voted for Bush in 2004, is an economic progressive and a family-values conservative. He doesn't like "pornography," divorce, abortion or gay marriage (civil unions are OK). It's interesting that in his earlier book *The Soul of Politics* Wallis cited numerous women theologians, while *God's Politics* mentions not one. Perhaps this is because the liberationist theologians he wrote about in *The Soul of Politics* are mostly very strong feminists who think women are capable of making moral decisions about childbearing and that abortion can be one such decision. Wallis constantly accuses "the left" of resisting "moral" arguments. I would say it is he who resists fully engaging moral arguments that differ from his own.

The fact is, "seamless garment" Catholicism aside, the denominations that share his liberal views are prochoice—most of the mainline Protestant churches, to say nothing of reform and conservative Judaism. (Just recently, more than 2,250 religious leaders from more than thirty-five faith traditions endorsed a strongly worded prochoice statement from the Religious Institute on Sexual Morality, Justice and Healing.) No wonder Wallis would rather talk about something else. Fortunately, God shares his priorities: Wallis often points out that the Bible mentions poverty thousands of times and abortion only a few. I'm not sure what this tells us—first we eradicate poverty and *then* we force women to have babies against their will? But in any case, Wallis is wrong: The Bible doesn't mention abortion even once. Wallis cites the text antichoicers commonly use to justify their position: "For it was you who formed my inward parts; you knit me together in my mother's womb" (Psalm 139:13). Say what? Nothing about abortion there, pro or con. Nobody who wasn't sure that somewhere in the Bible there *must* be a proof text against terminating a pregnancy would read that meaning into these words.

That so many Christians are firmly persuaded that the Bible condemns abortion suggests that God's politics tend to be the politics of the people who claim to speak for him. Since these men, and now women, have been arguing for centuries without reaching agreement on even the simplest matters, the rest of us are entitled to wonder if perhaps they are reading the wrong book. ■

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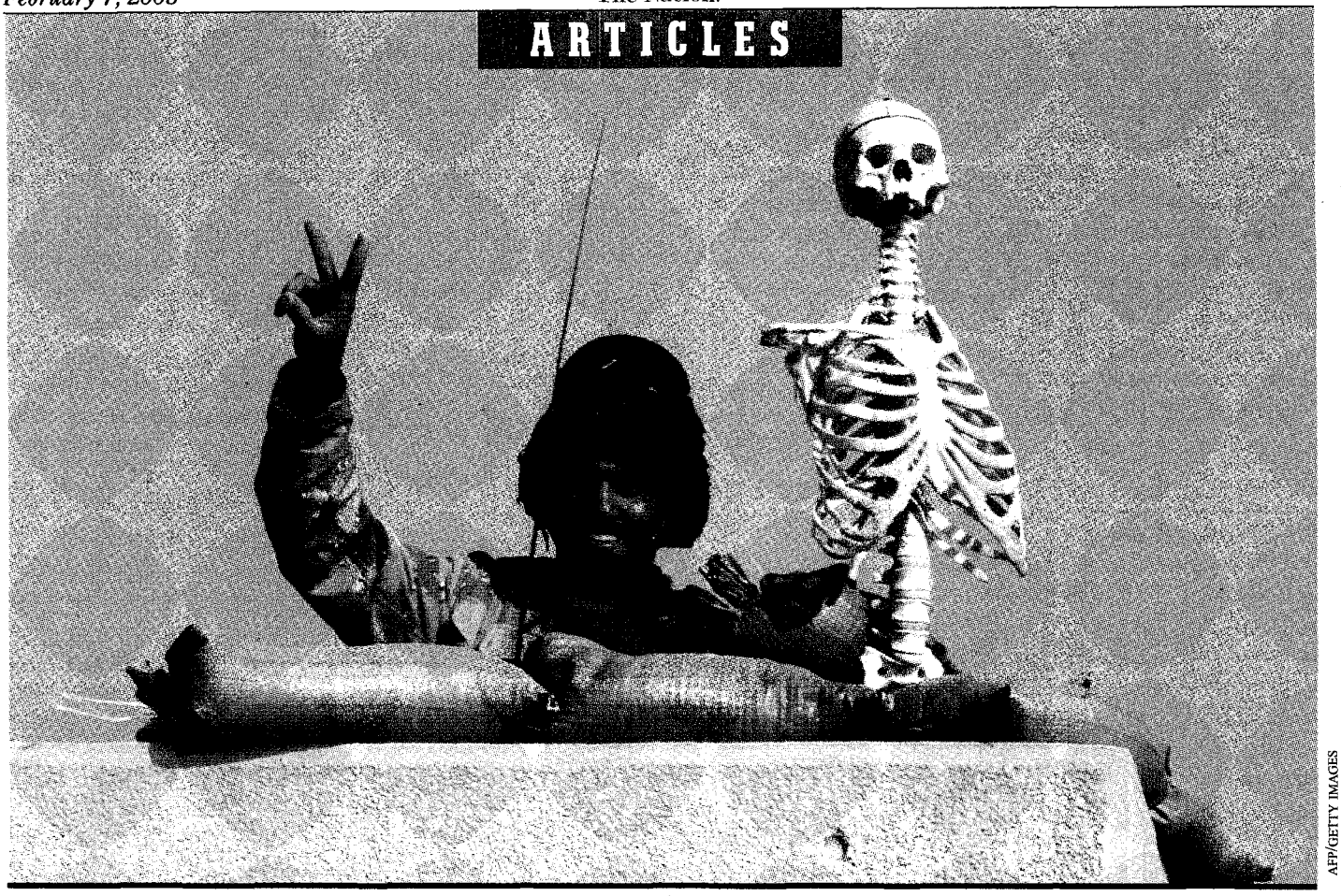
ARTICLES



APP/GETTY IMAGES

IRAQ: THE CHAOS DEEPENS

DAVID ENDERS

Baghdad

The destruction caused by the second US invasion of Falluja in November was met with quiet outrage by Iraqis. Most residents left before the invasion began, and rather than attempt to help the guerrillas inside the city (as happened during the April fighting, when the Mahdi Army, the Shiite militia loyal to cleric Muqtada al-Sadr, sent aid, arms and soldiers), other Iraqis have helped by absorbing the refugees as best they can. The refugees are spread out across the central part of the country, some staying with relatives, others in bomb shelters, camps, mosques or whatever can be found.

The camp in the courtyard of the mosque at Baghdad University is home to about 900 refugees. Some of the families here stay inside the mosque, but the rest are camped out in tents that provide little shelter from the winter wind that blows across the university. At night, temperatures dip to freezing.

As an Apache helicopter gunship buzzes low overhead, Umm Omar looks on with resignation. Continued fighting in Falluja has left the camp's residents with the feeling that they might be there for some time. Just before the New Year, Umm Omar set up a school for about 160 of the camp's children. Now she is asking the Education Ministry to permit her to administer mid-year exams at the camp. "If they are not able to take their exams, some of these children will lose an entire year of school. Some of them are in their last year of high school, and they want to finish this year," she said.

Riad Hassoun, a father of four who lives with his family in the camp, went back to Falluja in early January. After waiting for hours at the city's outskirts to receive an identification card from the US military (a process that includes a retinal scan and fingerprinting), he and his family stayed overnight but returned to the Baghdad camp the following morning.

"The houses around mine had all been destroyed," Hassoun said. "Our house was full of smoke—it was a mess. We cleaned up the house and spent the night there, but the bombing started at 7 in the evening and lasted until the morning. There were all sorts of bombs. My children couldn't sleep. There is no water; there is no electricity. I saw no reconstruction, just one truck trying to fix the electricity."

Hassoun was lucky—his house was still standing.

"My house was destroyed," said Umm Hussein, whose husband returned to Falluja in January to find their belongings unsalvageable. She cradles her sick son in her arms. "Every house in our neighborhood was destroyed. We have nothing left. How can I take my baby to the hospital?"

Sheik Hussein Abo Ahmed, who acts as a de facto head of the camp, led a demonstration in front of the Green Zone to demand greater rights for the refugees. Among their demands were

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unfettered return, compensation for destroyed homes and dead family members, and the right of journalists to be let into the city to film the damage.

"I saw one of the boys in the camp yesterday playing with a toy gun, and I asked him, 'Why don't you play with a soccer ball,' and he said, 'It is because I want to kill American soldiers for killing my uncle and my father,'" Hussein said.

"I have five women from Falluja and their children staying in an unfinished house I own," said the taxi driver who took us to the camp. "They cannot go back. The fighting is still going on. I don't understand why the Iraqi government would give the US Army permission to attack Falluja but do nothing for the people who lived there."

Opposition to the elections is by no means solely a Sunni exercise, even if most of the military operations against the vote are.

Harath al-Khodary, an openly radical member of a prominent business family, consults with members of the Muslim Scholars Association, the group that has taken the lead in the Sunni boycott of the elections. He is in charge of helping channel aid to the camp from other Arab countries. The camp has refused donations from a group of Americans who have sent aid to other Falluja refugees. I cannot help but find Khodary's hard-line stance, and the number of disenfranchised people who are susceptible to it, chilling—rather than "breaking the back" of the insurgency, it seems as though the US military has only fostered a more durable fighting force.

"The Iraqis are now divided into those who know what is going on and those convincing themselves that the Americans are liberators who are going to build Iraq and achieve freedom and democracy," Khodary said. "The Americans are mighty; they are well armored. Why can't they defeat a group of militia—'terrorists' with bad ideas?" he asks, his voice dripping with sarcasm.

As election day draws closer, the guerrillas are conducting their own "shock and awe" campaign. Using increasingly larger bombs, they destroyed a pair of Bradleys in less than a week, in one case killing all seven soldiers inside. In the first two weeks of January alone, more than 200 people were killed, including twenty-five US soldiers. Assassinations are a part of daily life. Hamoudi, a fixer I know, describes the recent carefully coordinated assassination of the governor of Baghdad province, as related by Hamoudi's brother, who lives in the neighborhood and says he saw it happen.

"A pair went at 7 in the morning to some of the men in the neighborhood. One had a vegetable stand, the other sold cigarettes. They told the men to leave, and they did. They hid their weapons in the vegetable and cigarette stands. There were four mujahedeen on a roof of one of the nearby buildings, and when the governor drove by, they opened fire from both sides of the street. They did not kill a single civilian, but when the governor's bodyguards opened fire, they fired wildly."

All six of the bodyguards were killed, but the lead car, carrying the governor, escaped the ambush. "He drove away, but there was another car waiting for him. When he stopped at a traffic light, they got out of the car and killed him. It was just like something out of a movie," Hamoudi said.

Voter registration is being done through government ration distribution centers, and stories of intimidation of managers of such shops abound.

"No one has come to threaten me, but they have killed agents and bombed their houses and their shops," said Nahudth Hathayer, a shop manager in the west Baghdad district of Jadriyah, a generally affluent area that is well patrolled by the US military. He said members of the resistance have gone to other shops to demand that registration papers be turned over to them.

"Some of the agents had already distributed the papers, and then people came to the shops to threaten them and told them to get the papers back by the end of the day. They couldn't do this, and then they came to their houses and killed them."

While military operations against the vote seem to be carried out exclusively by Sunni militias, opposition to the elections is by no means solely a Sunni exercise. Wamidh Nadhmi is the former political science chair of Baghdad University and a member of the Iraqi National Founding Conference, a nonsectarian political party led by Jawad al-Khalsi, a Shiite cleric. The party decided to boycott the elections because a list of conditions they had submitted to the Independent Electoral Commission last fall, which included a withdrawal of US troops from inside cities and greater international monitoring, had not been met. They also took issue with the ability of the commission to delete candidates from the ballot.

"The right to delete names from the list is fully undemocratic, especially if that person is not a convict," Nadhmi said, before moving on to a more serious problem. There are 111 parties vying for the 275 seats in the national assembly (only 500 signatures are required to be listed as a political party), but most Iraqis can identify few of the candidates, save for well-known party leaders—the Electoral Commission has refused to release the lists, citing safety concerns, and few candidates are campaigning openly, for the same reason.

"I don't see how you could go into elections and vote for a list not knowing who its members are," Nadhmi said.

The two main coalitions, the United Iraqi Alliance (a conglomeration of former exiles, including Abdul Aziz al-Hakim, the head of the Supreme Council for the Islamic Revolution in Iraq, former neocon darling Ahmad Chalabi and current Iraqi vice president and leader of the Shiite Dawa Party Ibrahim Jaafari) and Allawi's Iraqi List, are expected to fare best at the polls. The UIA is the most visible coalition, using the Supreme Council's militia, the Badr Organization, as a ready-made force for putting up posters. Almost all the posters bear the image of Grand Ayatollah Ali al-Sistani, the country's politically reticent senior Shiite cleric. The UIA claims his exclusive approval.

"They claim they are supported by Sistani, but a lot of Shiite clerics say it is impossible Sistani would approve one list," Nadhmi says.

David Enders has spent more than a year reporting from Baghdad since the US invasion. His first book, Baghdad Bulletin, *will be published by the University of Michigan Press in April.*

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At the office of Sistani's representative in the Khadimiya district, we are refused an interview—the question of elections is no longer to be addressed. There are some posters in this neighborhood encouraging people to vote, but most of them simply depict Sistani himself or other revered clerics and Shiite heroes. The real excitement surrounds a funeral celebration for a local cleric the next day; restaurateurs are already cooking huge pots of food in the streets.

As I ride back through the dark of early evening, Baghdad takes on an eerie aspect, a kind of arabesque Gotham. The power is out (on a good day, it alternates being on for two hours and off for four), and most of the light comes from the flames of restaurant rotisseries, filtered through the ever-present dust. The noise from generators is overpowering. We pass the hotel I stayed at for two months last winter, now boarded up, its trade in putting up busloads of Iranian tourists on their way to shrines in Najaf, Karbala and Samarra now completely dried up because of the increased violence.

'If [the Sunni] don't participate, it won't be an honest election.' —Sheik Gheith al-Tamimi, spokesman for Muqtada al-Sadr

Men in the gas lines are settling into their cars for the night; the wait can last up to two days. The irony of the fuel shortage is hard to ignore. In Iraq—which has the second-highest proven oil reserves in the world—it costs about $2 to fill a tank, and prices on the black market are roughly the same per gallon as they are in the United States. The words of Khodary ring in my ears: "I am calling for destroying all of the oil infrastructure. They are using it against us."

At Friday prayers in Thawra, or Sadr City, the Baghdad slum that is home to more than 2 million people and is the main support base for Muqtada al-Sadr, thousands fill one of the main streets for a Friday prayer service. Fighting between the US military and Sadr's Mahdi Army ended in September, although the Mahdi warned that it would resume attacks on US troops if they continued to arrest members of the organization. The Americans still target Sadr deputies, but militiamen have largely obeyed orders from Sadr to halt attacks.

Initially, it seemed as though Sadr was hedging his bets on the upcoming election, refusing to endorse candidates or the process, but refusing to condemn it as well. After the prayers I attended, one of his spokesmen relates Sadr's most recent statement. "Our leader will not participate officially in the elections, because there is no real representation for all groups and because there is a Sunni boycott," said Sheik Gheith al-Tamimi. "If [the Sunni] don't participate, it won't be an honest election. It won't be a free and honest election under occupation. We want the United Nations to supervise the election."

"Sadr is being fully watched by the Americans and the government," Nadhmi said. "If I were in his place, I would also choose my wording, because it is not he alone who is going to suffer from what he says—it is a whole town or area. If you take the so-called Sunni areas like Mosul, Salahadin province and Anbar province as a total boycott, and then the Sadr group, it might come to a 70 percent or 65 percent boycott."

A pair of Bradley vehicles sit on the curb in front of a gas station at one of Thawra's main intersections. Mobs of children surround the armored personnel carriers, attempting to pull off or unscrew any piece of hardware that is unsecured. Occasionally the back hatch of a Bradley lowers and an angry US soldier runs out, giving chase at top speed as the children scatter. It's a game, but he does not look happy. Another soldier grabs one of the kids and holds him up against the side of a Bradley. It's not unlike the game I've seen played by Israeli troops and Palestinian children—the soldiers give chase at top speed, acting as though they are pursuing a real enemy. The kids get a rise, the soldiers get to blow off steam.

The Bradleys are joined by a trio of US Humvees on patrol. A couple of soldiers step out of the lead truck to survey the scene. One goes no farther than the cover of the armored door he has just opened. "We've been shot at by a sniper in this area," he says as the soldiers in the other two Humvees scan the surrounding buildings.

Nearby, an Iraqi man (presumably part of the Iraqi Army contingent also guarding the gas station) with an assault rifle and camouflage jacket gives wild chase to some of the kids, occasionally hitting them with the butt of his rifle and pointing the muzzle threateningly.

"Is he Iraqi Army?" I ask a US soldier.

"We're not really sure."

"Hey, watch that guy, he likes to hit women," one of the other soldiers shouts. The crazed man runs up to me and brandishes his rifle in my face, gesturing wildly at my camera, and then begins chasing the kids again.

On the other side of the street, three young men glare at the soldiers and swear that if the Iraqi Army were not backed up by the US military, the men would have begun fighting them already.

"They let their friends cut in the gas lines," one says.

"They hit women," another says.

The men also say they will not vote in the election, and then decline to continue speaking.

At the old Defense Ministry complex, a looted shell on the city's east side, families squatting in the buildings look on as members of the Salam unit of the Iraqi Army drill. The ministry spokesman tells me they expect to have 70,000 soldiers ready by election day. The Salam unit has been moved from the relatively quiet Maysan province in the south to Baghdad. The men from this unit do not seem to have joined the army out of the same desperation that causes many of their counterparts in Baghdad to risk assassination for $200 a month.

"I am one of the members of the former Iraqi Army," said Deputy Officer Salim Rahim when asked why he joined the new army. "One of those who have been treated badly by the previous regime. My father and my brother were killed by Saddam in 1991 during the intifada."

Following the statement to its logical end leaves one standing on the edge of just one of the growing rifts in Iraqi society that could lead to more serious warfare. Another correspondent voiced it perfectly while we were having dinner a few nights ago: "What are we going to do when real chaos breaks loose?" ■

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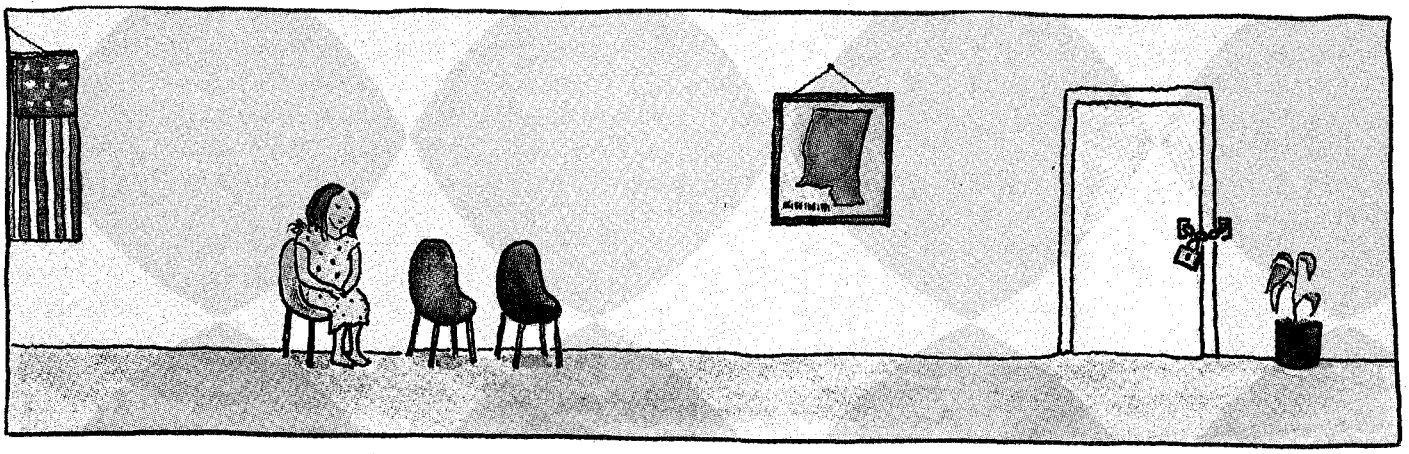
HAVING ALL BUT OUTLAWED ABORTION, MISSISSIPPI HAS BECOME A LABORATORY FOR ANTICHOICE STRATEGISTS. PROCHOICERS ARE BEGINNING TO TAKE NOTICE.



CAITLIN DOVER

Post-*Roe* Postcard: Is Ole Miss Our Future?

SHARON LERNER

Jackson

As you read this piece about abortion in Mississippi thirty-two years after the right to have an abortion was affirmed by the Supreme Court, the government of Mississippi is marking the anniversary of *Roe v. Wade* in another way. Governor Haley Barbour has issued an official proclamation declaring the seven days leading up to the anniversary "a week of prayer regarding the sanctity of human life." Barbour also authorized the placement of tiny white crosses on the lawn of the state Capitol "in memory of the unborn children who die each day in America," according to the decree. The crosses have been planted for the past three years, though this year Barbour will be at President Bush's inauguration during the official anniversary event, and the display was moved to a nearby churchyard. Barbour is a Republican, but it should be noted that the tradition of transforming the Capitol lawn into a symbolic mini-graveyard was begun by the previous governor of Mississippi, who was a Democrat.

With eight of nine US Supreme Court Justices over 65 and one seriously ill with cancer, much of the country is understandably focused on the possibility that their soon-to-be-appointed replacements will overturn the decision upholding the right to abortion. But in Mississippi, in many ways, *Roe* has already fallen. Abortion is legal here, of course, as it must be throughout the country while the landmark ruling stands. Yet, for many women, the ability to terminate a pregnancy is out of reach, buried under state laws that make the process unnecessarily difficult, discouraged by a sense of shame enforced by practically every public authority, and inaccessible for many who lack money to pay for it.

How Mississippi all but outlawed abortion is a story people on both sides of the abortion debate are still struggling to understand. Few would expect this famously conservative Southern state to be prochoice. And Texas, Louisiana and a few other states have been competing for the dubious distinction of being the worst place to be if you want or need to end a pregnancy. But Mississippi has gone further in its hostility to abortion even than other Bible Belt states. A small, mostly rural population and the absence of local prochoice organizations have helped turn Mississippi into the perfect laboratory for antiabortion strategists.

Virtually every possible restriction on the procedure exists here, from a mandatory twenty-four-hour waiting period after counseling, to a requirement that minors obtain the consent of both parents to have an abortion, to thirty-five pages of regulations dealing with such physical characteristics as the width of a clinic's hallways and the size of its parking lot. The mounting restrictions (Mississippi passed six antiabortion laws last year alone) have delighted antiabortion activists all over the country, who have hailed—and copied—the state's innovations.

Meanwhile, prochoice activists see Mississippi as a glimpse of what might become the norm in a possible post-*Roe* future. "It's the canary dying in the mine," says Nancy Northrup, president of the Center for Reproductive Rights. If the Supreme Court were to reverse the decision, abortion would likely become illegal in thirty states, including Mississippi, according to a 2004 report by the center. Across what can seem like a great divide, the twenty other states have laws, constitutions or court decisions that would protect the basic right to abortion even if *Roe* falls. While some of these, including New York and Washington State, which both decriminalized abortion before

Sharon Lerner is a senior fellow at the Center for New York City Affairs at Milano Graduate School, New School University.

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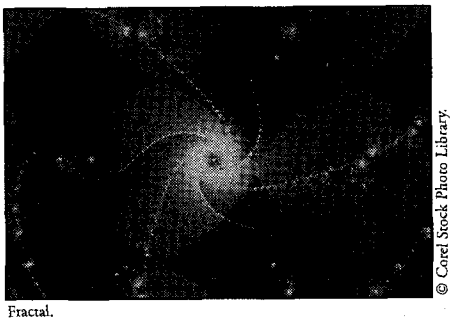

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1973, will likely remain strongly prochoice, others may pass restrictive laws like Mississippi's.

Even while *Roe* stands, Mississippi is a cautionary tale for the rest of the country. "It's what can happen if the constant strategy of chipping away at *Roe* is not met with sufficient push-back from the prochoice movement," says Northrup. So in order to preserve the right to abortion, prochoice Americans would do well to learn how Mississippi all but eliminated it.

Jackson Women's Health Organization occupies a small stucco building on a quiet, tree-lined street. If not for a handful of people holding I'LL PRAY FOR YOU and DON'T KILL YOUR BABY signs, you'd hardly know it was Mississippi's only remaining abortion provider. There used to be others. In 1996, there were six medical facilities providing abortions in Mississippi. But since last August, there has been only the Jackson clinic, which is staffed by three part-time physicians, only one of whom lives in Mississippi. (Two others fly in from other states to work for a few days at a time.)

Mississippi, the state with arguably the least access to abortion, also has the second-highest rate of child poverty in the country.

Many of the chairs in the clinic's waiting room are full on the four days a week that abortions are done, but the Jackson Women's Health Organization is not overly busy. That's because the number of abortions performed in the state has plummeted as restrictions have mounted. While there were 21.3 abortions for every thousand women of reproductive age nationwide in 2000, in Mississippi there were only six, down from more than thirteen in 1991.

With the third-highest teen pregnancy rate in the country, Mississippi's low number of abortions is not an illustration of the "safe, legal and rare" ideal that many talk about, in which a decline in unwanted pregnancies creates a corresponding drop in abortions. Rather, it is the direct consequence of concerted opposition to abortion from the grassroots to all levels of government.

Such concern for the rights of fetuses does not appear to translate into a commitment to promoting the well-being of the children they may become. The uncomfortable irony for an opposition movement purportedly concerned with saving "innocent babies" is that restrictions on abortion are associated with worse outcomes for actual babies. Indeed, children fare terribly in Mississippi. The state with arguably the least access to abortion also has the second-highest rate of child poverty in the country, according to the Children's Defense Fund. Mississippi's infant mortality rate—a good indication of the health of both women and children—is the highest in the country. For every 1,000 live births, 10.5 infants under age 1 die in Mississippi. In parts of the impoverished Delta region, that number ranges up to 18. (The national infant mortality rate, by comparison, is 6.8.) Interestingly, a postelection comparison found that "red" states had higher infant mortality rates than "blue" ones. In general, states that restrict abortion spend far less money per child than prochoice states on services such as foster care, education, welfare and the adoption of children who have physical and mental disabilities, according to a 2000 book by political scientist Jean Reith Schroedel.

Schroedel also found that women in antiabortion states are worse off than their counterparts in prochoice states. They suffer from lower levels of education, higher levels of poverty, and a larger gender gap in earnings. They are also less likely to enjoy mandated insurance coverage for minimum hospital stays after childbirth. Together, the conditions make for an abysmal reality for women in Mississippi, which came in fifty-first in a 2004 ranking of the status of women in the fifty states and Washington, DC, published by the Institute for Women's Policy Research.

The poverty of women in Mississippi both increases their need for abortions and their difficulty in obtaining them. In the poorest state in the country, where more than one in five women lack health insurance and live below the poverty line, girls and women are often unable to get birth control. Only about two in five women and teens in Mississippi who need publicly financed contraception receive it, according to the Alan Guttmacher Institute, which does research on reproductive issues. Though the inability to prevent unwanted pregnancies makes women only more likely to want abortions, many of the forces behind the anti-abortion movement here also oppose contraception. Pro-Life Mississippi, for instance, regularly protests the only Planned Parenthood office in Mississippi, which is in Hattiesburg, even though it provides only birth control, not abortion.

Because of the intensely hostile climate toward abortion, 60 percent of Mississippi women who want to end their pregnancies go out of state to do it, according to the Guttmacher Institute. Some others may even resort to illegal abortions. In the Delta, the poorest region in the state, parts of which are four hours from Mississippi's one clinic, "lay midwives" minister to unwanted pregnancies, according to several sources. Many others want the procedure but simply cannot afford to pay for it.

Betty Thompson hears from these women regularly. Thompson, who worked as counselor and then director of the Jackson Women's Health Organization for years and is now a consultant to the clinic, says women often call saying they want abortions but don't have the money to pay for them, and delay the procedure because they lack the funds. (The clinic charges from $380 to $615 for an abortion, depending on the stage of pregnancy.) About once or twice a week, she says, the clinic gets calls from women who, while trying to gather money or arrange to travel to Jackson, have passed the sixteen-week gestation point, beyond which the clinic can't provide abortions. "There's nothing we can do then," she says.

Thompson, a stately grandmother who had her first child when she was 16, says the National Women's Health Foundation used to provide money to help women who couldn't afford abortions at the clinic. But since the funds dried up last year, she often finds herself encouraging resourcefulness among women desperate for abortions. "I have to play the social worker," she explains. But hers is an unusual sort of social work. "I say to them, have you tried to borrow money from everyone you could? Have you tried to sell your jewelry yet?"

Mississippi forbids facilities that receive public money from performing abortions and bans Medicaid funding for them. Though the law officially makes exceptions for cases of rape, incest, fetal anomaly and danger to the woman's life, clinic staff

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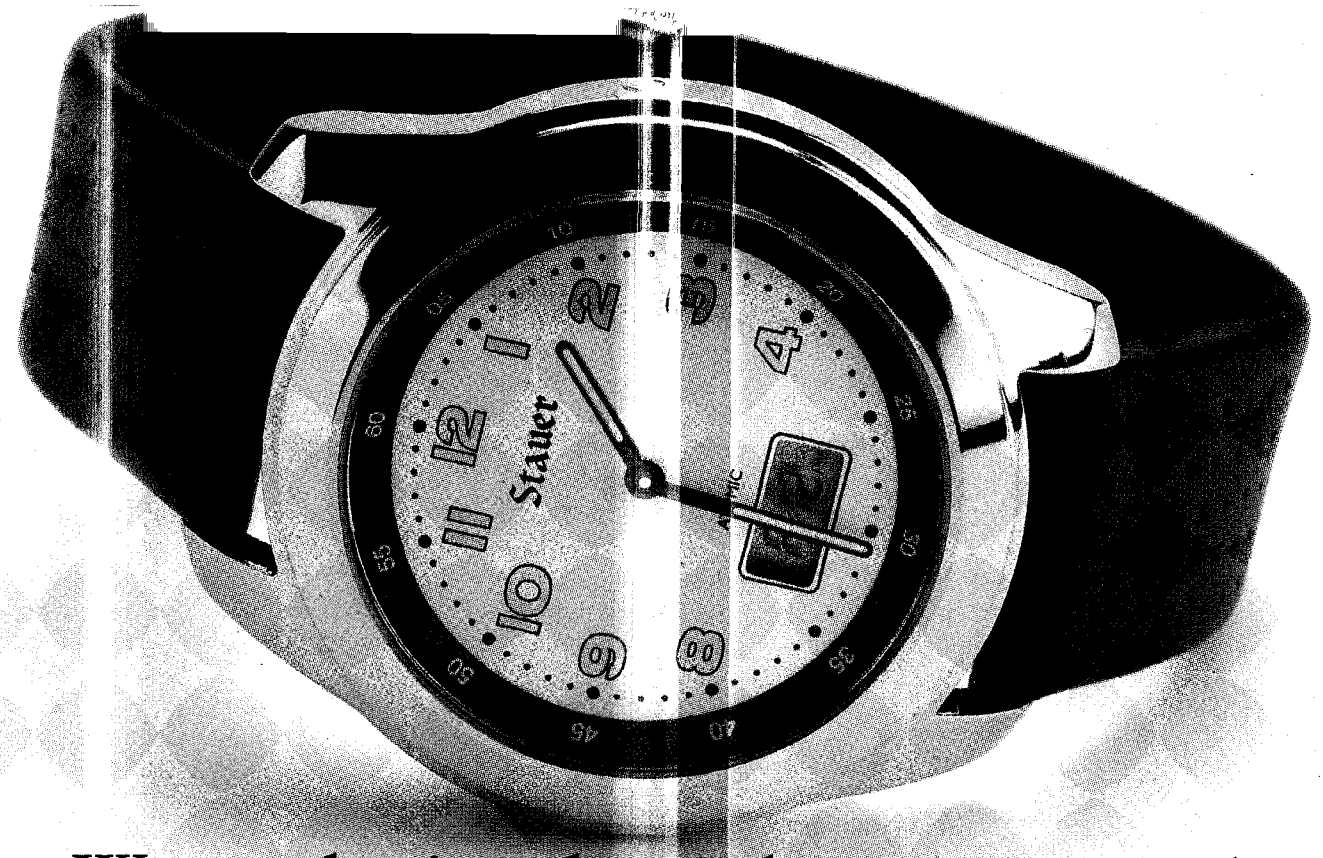

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say they have not once succeeded in collecting Medicaid reimbursement in these cases. "We've filed for it and we've never been paid for them, and so we don't even file anymore," says Susan Hill, the Jackson Women's Health Organization's president. Hill, who was a social worker before *Roe*, says, "Mississippi is like the rest of the country was before 1973." Women who arrive at her clinic "have that same look in the eye now," she explains. "They have to go through the same kind of struggles."

Some, for instance, end up spending the night in their cars after driving to the Jackson clinic. Mississippi requires that everyone seeking an abortion wait at least twenty-four hours after an informational session before having the procedure. Because 98 percent of women here live in a county without an abortion provider and some live several hours away, getting an abortion can turn into a two-day ordeal, and many patients struggle to find childcare and a place to stay while they're away.

The mandatory delay has also lowered the number of abortions and caused many to be performed later in pregnancy. The abortion rate in the state declined from 11.3 percent to 9.9 percent in the six years after the law was enacted in 1992, according to a study published in *Family Planning Perspectives* in 2000. (Another study compared Mississippi's abortion rates to those of South Carolina and Georgia during the same period and found the drop to be specific to the state, suggesting that the policy change was responsible.) The study also showed that after the law went into effect, the proportion of second-trimester abortions increased by 53 percent among women whose closest provider was in Mississippi.

Even liberal state legislators don't identify as prochoice. 'Either you say you're prolife or you don't say anything,' one explained.

In case the waiting period and the cost aren't enough to discourage teens from ending unwanted pregnancies, Mississippi also has a well-enforced requirement that minors get the permission of both parents before having an abortion. The only way a girl can get around the law—one of only two in the country—is to go before a judge and explain why she wants an abortion and can't tell her parents. One attorney, who has represented minors in such judicial reviews and did not want to be identified, said her clients, who have included an 11-year-old whose mother was a crack addict, were "scared to death" by the process. "It's a huge deterrent," she said.

Doctors who perform abortions, meanwhile, bear the brunt of the organized antichoice movement's wrath. Consider what happened to Donald Whitaker, a young doctor who until January 2004 was part of an Ob-Gyn practice in Hattiesburg and also provided abortions on a volunteer basis at the Planned Parenthood clinic in Mobile, Alabama. Last winter, protesters in Mobile identified the doctor, tracked down the address of his Hattiesburg office and began protesting in front of it—even though neither Whitaker nor his colleagues performed abortions there. The protests were led by antiabortion activist Father Edward Markley, who spent time in federal prison after attacking clinic employees and taking a sledgehammer to a clinic in Alabama. Weeks after these protests began, the doctor resigned from his job and left the state.

An unmistakable undercurrent of violence runs through the antiabortion movement in Mississippi. Roy McMillan, for instance, who can be found most afternoons in a lawn chair across from the clinic in Jackson, has been arrested sixty-two times in his twenty-five-year career as an activist. He has threatened clinic staff, and put his fingers in the shape of a gun and "shot" them, earning himself a federal injunction that requires him to remain at least twenty-five feet from the building. McMillan also signed a declaration calling the murder of abortion providers justifiable and was a longtime friend of Paul Hill, the antiabortion activist who was executed for murdering Florida abortion provider Dr. Bayard Britton and his clinic escort, 74-year-old Jim Barrett.

McMillan, who was dressed in a Santa outfit when I met him on a 50-degree day in December ("This is a time for peace on earth, not war in the womb," he explained), seems happy to play the part of extremist. He shouts "For shame!" at women heading toward the clinic, carries a plastic baby doll with him and hasn't held a job in nineteen years. Yet, nutty and dangerous as he may seem to many, McMillan enjoys a certain legitimacy in Jackson. He is married to a prominent local physician, who after providing the first abortions in the state had a religious conversion (and married McMillan) and is now one of several Ob-Gyns in the area who refuse to prescribe birth control. And though McMillan says he would like the state to move more quickly to become the first to be "abortion-free," he says he feels his state government is on his side.

This is not McMillan's imagination. The Governor has made his antiabortion passions perfectly clear. The local circuit courts have repeatedly shown themselves to be negatively inclined toward abortion. And I was unable to find any Mississippi legislators who openly identify themselves as prochoice. "Either you say you're prolife or you don't say anything," explains Erik Fleming. A Democratic state representative who was described to me as the most likely state legislator to call himself prochoice, Fleming bristled at the term. "I don't like to be put into that label thing, because when you put a moniker saying you're against life, that's pretty strong," says Fleming, who supports limiting abortion and has sponsored legislation that would ban abortions after the first trimester of pregnancy.

The equivocation of folks like Fleming, who works as an abstinence educator when the legislature is not in session, is still better than the outright terror of the issue some other Mississippi politicians display. In the November election for state lieutenant governor, the incumbent, Republican Amy Tuck, accused the Democratic candidate, state Senator Barbara Blackmon, of being prochoice. Blackmon, who does support abortion rights, might have said, "One in three American women has an abortion by age 45. I support keeping it safe and legal for them." Or maybe even simply, "Yes, I'm prochoice. Next question?" Instead, she responded by accusing Tuck of having had an abortion herself, and challenged her to sign an affidavit swearing she hadn't. Tuck signed the affidavit and won the election.

The fear of being associated with the issue extends beyond government officials. Even Mississippians who are outraged

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about how their state has handled abortion were afraid to be named in an article about it. ("I'm a Catholic, my priest would kill me," is how one explained it.) And the issue is "too divisive" for the Mississippi Coalition on Women to address, according to one of the group's founders. Meanwhile, the few willing to work openly on the issue are overwhelmed. Susan Hill, who runs clinics in Wisconsin, Indiana, Delaware, Georgia and North Carolina, in addition to Mississippi, says she saves her energy for the big fights. Currently she's leading the battle against a renewed push to ban abortions after the first trimester of pregnancy, which ends around the twelfth week. Already, the state limit is sixteen weeks, though *Roe* allows abortions until the point of fetal viability, at least twenty weeks into pregnancy. Sixteen weeks is a significant cutoff, since amniocentesis and other tests for fetal abnormalities are performed at that point. As a result, women cannot get abortions in the state because of problems discovered through these tests.

Operating in triage mode has meant that no one in Mississippi has found the time to sue over highly questionable state policies. So, by law, clinic doctors must give the scientifically unfounded warning that having an abortion might increase the risk of breast cancer. The state issues "Choose Life" license plates despite the fact that the practice has been found unconstitutional in other states. And the governor's proclamation, which declares that "the time has come" to overturn *Roe v. Wade* in addition to authorizing the display of the crosses, has gone unchallenged.

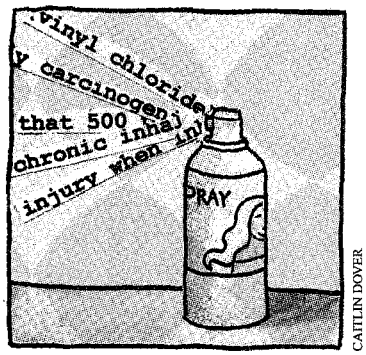
Mississippi, the proclamation tells you, lives by a different law from the rest of the land—for now, anyway. And even while they challenge it simply by running Mississippi's last remaining abortion facility, Susan Hill and Betty Thompson have been forced to accept that reality. In his lawn chair outside the clinic, Roy McMillan rejoices in it. And the women of Mississippi, who sleep in their cars, shuttle out of state and bear unwanted children in poverty, live it. ■

COMPANIES ARE USING NEW TACTICS TO INSURE PAST MISDEEDS AREN'T REVEALED IN COURT.

Cancer, Chemicals and History

JON WIENER

Twenty of the biggest chemical companies in the United States have launched a campaign to discredit two historians who have studied the industry's efforts to conceal links between their products and cancer. In an unprecedented move, attorneys for Dow, Monsanto, Goodrich, Goodyear, Union Carbide and others have subpoenaed and deposed five academics who recommended that the University of California Press publish the book *Deceit and Denial: The Deadly Politics of Industrial Pollution*, by Gerald Markowitz and David Rosner. The companies have also recruited their own historian to argue that Markowitz and Rosner have engaged in unethical conduct. Markowitz is a professor of history at the CUNY Grad Center; Rosner is a professor of history and public health at Columbia University and director of the Center for the History and Ethics of Public Health at Columbia's School of Public Health.



CAITLIN DOVER

The reasons for the companies' actions are not hard to find: They face potentially massive liability claims on the order of the tobacco litigation if cancer is linked to vinyl chloride–based consumer products such as hairspray. The stakes are high also for publishers of controversial books, and for historians who write them, because when authors are charged with ethical violations and manuscript readers are subpoenaed, that has a chilling effect. The stakes are highest for the public, because this dispute centers on access to information about cancer-causing chemicals in consumer products.

Jon Wiener (Wiener@uci.edu), who teaches history at UC Irvine, is the author of Historians in Trouble, *just published by the New Press.*

For Rosner and Markowitz the story began in 1993, when they traveled to Lake Charles, Louisiana, to look at what they were told was "a warehouse of material" about vinyl chloride and cancer. The address they were given turned out to be a "decrepit hovel in the desolate center of town," as Markowitz describes it. They found it "full of chemical industry documents, lining every wall and filling every corner." The material, Rosner told me, was "incredible. Not just company documents but records of meetings of the trade association for the chemical companies. No one had ever seen anything like it."

The material had been obtained through the discovery process by a local attorney, Billy Baggett Jr., who was working alone with a single client: A woman whose husband, a former worker in a chemical plant, had died of a rare cancer, angiosarcoma of the liver, caused by exposure to vinyl chloride monomer. She was suing the chemical company where he had worked. Baggett "had become obsessed with the case and dropped all the other cases he was supposed to be working on in his father's firm," Rosner told me. "He had not been able to bring the case to trial. So his father went to a bigger law firm asking for help. They asked us to go down to Lake Charles, Louisiana, and find out—is there anything there in the documents? Or is this guy just an obsessive?"

Baggett had sued thirty companies and the Chemical Manufacturers Association (now called the American Chemistry Council) for conspiracy, arguing that they had concealed evidence of disease and death related to vinyl chloride. He had received hundreds of thousands of documents in response to his discovery motions. Apparently the chemical companies had flooded him

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with material in the belief that he would be overwhelmed by the sheer quantity, and that as a result nothing would happen.

The question about the chemical companies and the health risks of vinyl chloride is the classic one: What did they know, and when did they know it? Rosner and Markowitz used the Baggett materials to show that in 1973 the industry learned that vinyl chloride monomer caused cancer in animals—even at low levels of exposure. Since vinyl chloride was the basis for hairspray, Saran Wrap, car upholstery, shower curtains, floor coverings and hundreds of other consumer products, the implications for public health were massive. Yet the companies failed to disclose that information about cancer to the public and to the federal regulatory agencies.

The bigger issue for the companies stems from the role of vinyl chloride monomer as a propellant in aerosols in the 1950s and '60s. In 1974 the Food and Drug Administration and the Environmental Protection Agency asked for the recall of hairsprays (along with insecticides and other aerosols) that were still on the shelves with vinyl chloride monomer as the propellant—one hundred products in all. No one has studied whether people who worked in beauty parlors, or women who used hairspray, have had higher rates of cancer. But the industry started worrying in the early 1970s that the liability problem could be bigger than that for workers in chemical plants. The problem was "essentially unlimited liability to the entire US population," as one chemical company supervisor wrote in a 1973 memo. Hairspray was a particular concern.

The question about the companies and the risks of vinyl chloride is the classic one: What did they know, and when did they know it?

The documents served as the basis for two chapters of Rosner and Markowitz's book, published in 2002 to stellar reviews in the news media as well as medical and scientific journals: the *St. Louis Post-Dispatch* declared that the book "ought to give thousands of corporate executives insomnia" (the key documents have been posted on the Internet at www.chemicalindustryarchives.org/dirtysecrets/vinyl/1.asp).

The documents are of a kind that outsiders have rarely been allowed to see: private corporate records, including internal reports of meetings where corporate officials made decisions about making and marketing products that caused health problems for workers and the public. For example, the key chapter on vinyl chloride in the book is titled "Evidence of an Illegal Conspiracy by Industry." That phrase is not the authors'; it comes from a key 1973 document in the files of the chemical company trade group, the Manufacturing Chemists Association, worrying that a legal memo on concealing the vinyl chloride–cancer link "could be construed as evidence of an illegal conspiracy by industry if the information were not made public or at least made available to the government."

At issue now in US district court in Jackson, Mississippi, is the claim by another former chemical worker that Airco and other companies are liable for his liver cancer because he was exposed to vinyl chloride monomer on the job. Markowitz is a key expert witness for the plaintiffs, because of the research he and Rosner published in *Deceit and Denial*. But the judge is being told that Rosner and Markowitz's research is "not valid," that the publisher's review process was "subverted" and that Rosner and Markowitz have "frequently and flagrantly violated" the American Historical Association's code of ethics.

Those charges come from another historian enlisted by the chemical companies: Philip Scranton of Rutgers University, who wrote a forty-one-page critique of *Deceit and Denial* and of the ethics of the historians who wrote it. Scranton teaches business history at Rutgers-Camden, where he is University Board of Governors Professor of the History of Industry and Technology. He also works at the Hagley Museum, a museum of early-American business history at the "ancestral home" of the Du Pont family, as it's described on the official website. Scranton directs the museum's research arm, the Center for the History of Business, Technology and Society. He also testified recently for the asbestos companies in their liability litigation.

Although Scranton is serving in this case as an expert witness for the chemical companies, he's not an expert on cancer-causing chemicals; he's best known for his prizewinning book on the textile industry in Philadelphia. In this case, he doesn't claim to be an expert on the postwar chemical industry; instead, he offers himself as an expert on Markowitz's ethics. Markowitz, in contrast, is a genuine expert on the central issue in the case: the question of what the chemical companies knew, and when they knew it.

Scranton in his forty-one-page statement for the chemical companies charges that Markowitz violated "basic principles of academic integrity, historical accuracy, and professional responsibility" and engaged in "sustained and repeated violations" of the official "Standards" of the American Historical Association. Scranton's argument: Markowitz knew the names of the people reviewing his manuscript for the publisher and had suggested names of possible manuscript reviewers to the publisher. "Such practices," Scranton writes, "subverted confidential, objective refereeing of scholarly manuscripts."

But it's a common practice of university presses to ask authors to suggest reviewers, often because authors know better than editors who the most knowledgeable experts are, especially on an obscure topic like vinyl chloride. There's nothing unethical about this practice and nothing in the AHA standards about it. It *is* true, as Scranton suggests, that university presses typically offer manuscript reviewers the option of keeping their report confidential from the authors, and that in this case the publisher revealed the identities of the reviewers to the authors. But that was part of a review process that was much more demanding than the typical case. Instead of the usual two or three manuscript reviewers, Rosner and Markowitz's manuscript had eight outside reviewers, including the former head of the National Cancer Institute and the former chair of the Centers for Disease Control's Lead Advisory Panel. And instead of simply forwarding the written evaluations to the authors, as is the usual practice, Milbank Memorial Fund, the public health nonprofit that co-published the book with the University of California Press, sponsored a two-day conference that brought together the reviewers, the authors and their editors to go over the manuscript chapter by chapter. To describe this rigorous

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scholarly process as "unethical" because it revealed the identities of the reviewers to the authors is absurd.

Scranton also objects to what he calls "overgeneralization" in *Deceit and Denial*. For example, the authors use the term "industry." But, Scranton argues, there were only individual companies. Rosner and Markowitz in their response show that the companies formed a trade organization that claimed to speak for "the industry." And Scranton accuses Markowitz of ethical violations for incomplete and selective quotation and one-sided advocacy. However, Scranton violates precisely what he says are the ethical principles he is defending; Scranton's essay is much more incomplete and selective, and is completely one-sided in its defense of the chemical industry.

Could Scranton be right that Markowitz violated the AHA Statement on Standards in his research? I asked the vice president for research of the AHA, Roy Rosenzweig, Distinguished Professor of History at George Mason University. "I've read the AHA Statement on Standards," he says. "I see nothing in Markowitz and Rosner's book that's a violation of the AHA Standards. In my opinion, the book represents the highest standards of the history profession. Scranton should be embarrassed to make the claim that there's an ethical violation here—as opposed to the claim that he disagrees with their interpretation."

'I see nothing in Markowitz and Rosner's book that's a violation of the AHA Standards.'
— Roy Rosenzweig, AHA research vice president

The rest of Scranton's argument has a lot in common with the arguments made by the tobacco and lead companies and their attorneys in those historic liability lawsuits, arguments that have been identified by Stanford historian Robert Proctor, writing in *The Lancet*, one of the leading medical journals in the world. The generic arguments go something like this: Although historians have found evidence that industries were aware of the danger posed by their products, that evidence was not definitive; because they had "no proof," they had no obligation to act to protect the health of workers or the public; standards of corporate morality and openness have become stronger only recently, so it's "unfair" to apply today's standards to past conduct; and of course there's always the argument that the historians who claim to have found evidence of corporate misconduct are "biased."

When I asked Scranton by e-mail if he would be willing to talk about his deposition, he replied, "These are matters for a court to address and are not yet issues for public debate." Of course, nothing is more public than a court case—but he told the *Newark Star-Ledger* he "regretted" that Rosner and Markowitz were making the issue public. Columbia historian Elizabeth Blackmar, one of the manuscript reviewers who were subpoenaed by the chemical companies, said, "I respect Scranton's work as a historian, so I was sorry he had turned himself into a hired gun this way."

If it's unprecedented for companies to go after historians in the way Rosner and Markowitz have been attacked, it's also apparently unprecedented to subpoena and depose the peer reviewers who recommended that a university press publish a book. The Blackmar subpoena—"my first," she says—read: "You are commanded to appear" in US district court, and to "produce and permit inspection and copying" of all the material used in preparing the evaluation of the book manuscript, including "any original written, typewritten, handwritten, printed or recorded material… now or at any time in your possession, custody or control," including all e-mail.

Academics aren't used to being "commanded" to do anything, and are unlikely to have attorneys of their own to accompany them to depositions. In this case, since the book was co-published by the Milbank Fund, the fund provided the subpoenaed historians with attorneys from Milbank, Tweed, the blue-chip Wall Street global legal powerhouse. At the depositions, each historian faced attorneys for fifteen different chemical companies. One of the key questions was whether those who recommended the book for publication had checked the footnotes. That would have been a big job: *Deceit and Denial* has more than 1,200 footnotes, many citing more than one source. The prevailing practice at university presses is that manuscript reviewers are not expected to check footnotes; Lynne Withey, director of the University of California Press, asked, "How could you expect people to do that?" In fact, the documents in Rosner and Markowitz's footnotes were checked thoroughly before publication by attorneys for both PBS and HBO: PBS ran a Bill Moyers documentary in 2001 on cancer caused by chemicals in consumer products, based on Rosner and Markowitz's research; and HBO ran an award-winning documentary in 2002, *Blue Vinyl*, based on some of the same research.

What's the point of deposing manuscript reviewers for university presses? Blanche Wiesen Cook, Distinguished Professor of History at the Graduate Center of the City University of New York, former vice president for research of the AHA, award-winning biographer of Eleanor Roosevelt and one of the historians who were deposed, called it "harassment to silence independent research" and an effort to create "a chilling effect on folks who tell the truth."

What's it like to be deposed in this situation? Markowitz's deposition lasted five and a half days. He said, "You face fifteen or sixteen lawyers, none of whom like you, and all of whom are trying to trick you." Cook's deposition took only an hour, but it was "an hour of battering and legal tricks, and the goal was to trip you up and get you confused," she said. "They kept asking me how long I had known Gerry Markowitz. I said, 'Are you asking if I had an affair?' They said, 'No, why are you asking that?' I said, 'Where I come from, that's the implication of your question.' They said, 'Where do you come from?'" This seems pretty far from the question of vinyl chloride and cancer.

Scholars like Cook and Blackmar who review manuscripts for university presses don't do it for the money—UC Press typically provides $300 in free books or $150 in cash—but rather out of a sense of obligation and duty; they certainly don't expect to have to defend their recommendation under oath in the face of hostile questioning from a dozen corporate lawyers. Should UC Press have done more to protect its manuscript reviewers and its review process? Should it have resisted the subpoena for the reviewers'

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names and information? UC Press director Withey says that if this had been the typical manuscript where the reviewers had been promised confidentiality, "I would not have revealed names of reviewers. That would have gotten us into a sticky situation, I'm sure." William Forbath, Lloyd Bentsen Professor of Law at the University of Texas, says any effort to resist a subpoena for reviewers' names and information would have been "in vain." If the information in question is relevant to the case, he says, "there is no general privacy privilege outside of the attorney-client privilege, the spousal privilege, the doctor-patient privilege and the priest-penitent privilege—that exhausts it. The publisher promises its manuscript readers confidentiality, but that doesn't count for squat in the context of a legal proceeding."

Rosner and Markowitz are part of a larger trend in which historians are appearing in court more often as expert witnesses. One reason is the growing number of cases in which companies are being accused of wrongdoing based on evidence that workers and consumers are suffering illness and disability because they were exposed to asbestos, lead, silica or other chemicals. In every case, the exposure began decades ago, and thus in every case, the central legal question is a historical one: When did the companies first learn of the health dangers posed by their products? At what point in the past can they be held responsible?

A second reason is a consequence of the failure of governmental regulatory agencies to act. Now, in an era of Republican domination, the Occupational Safety and Health Administration and the Environmental Protection Agency, originally created to protect the health of workers and the public, tend to be industry-dominated. As a result, the courts have become, in the words of Rosner and Markowitz, "one of the last venues where workers and communities might find some form of justice."

In the past, each side in corporate liability cases has presented experts who debated the evidence in the corporate documents. This case marks a new departure, because the strategy of the chemical companies is to charge the plaintiff's expert with unethical conduct. Will this ploy succeed? The logic of the argument is dubious: So what if some of the manuscript reviewers for *Deceit and Denial* knew the authors? What ought to decide the case are the facts about what the chemical companies knew about cancer and when they knew it. On the other hand, juries don't know much about publishing history books. It's possible that a jury could be convinced that something was wrong with a book whose manuscript reviewers didn't check footnotes, and with a publisher that did not maintain strict confidentiality in the manuscript review process.

Most of these corporate liability cases are settled before going to a jury, but the willingness of the companies to settle is based on their estimate of the persuasiveness of the witnesses against them and their guesses about the jury. This case, originally scheduled to go to trial in February, has been rescheduled for September. ■

LETTERS
CONTINUED

(Continued From Page 2)

BOMBING FALLUJA'S HEALTH CENTER

Sharjah, United Arab Emirates

■ Thank you for Miles Schuman's "Fulluja's Health Damage" [Dec. 13]. I used it for a critical writing assignment in the advanced writing class I teach here in the United Arab Emirates—both because I wanted to give my Arab students a chance to analyze an effective argument on a topic that concerns them and because I was interested in their responses. As I guessed, they weren't surprised by the information in the piece, but they were very surprised that a US magazine would run such an article, since they get their impression of the US newsmedia from the American network news on TV satellite.

Most of them felt that the most convincing evidence was listing the names of some of the victims. They also admired the rhetorical strategy of saving the declaration that the attacks constitute war crimes for the conclusion, because stating it in the thesis might make it seem like too absolute a claim. However, some of the students felt the piece would have been even more effective if Schuman had presented and then refuted the counterarguments.

I'll leave you with a student's quote, which suggests as much about America's image as it does about the article. "Even though Miles Schuman is an American, he did a good job in creating an effective essay." JUDITH CAESAR

Geneva

■ We read with interest "Falluja's Health Damage," by Miles Schuman, which quotes UN High Commissioner for Human Rights Louise Arbour. On November 16 Mrs. Arbour expressed deep concern about the plight of civilians in Falluja and asked that violations of the rules be investigated and their perpetrators brought to justice. She did not "vow" to do this herself, as Schuman states, as that is not the mandate of our Office. JOSÉ LUIS DÍAZ

Office of the High Commissioner for Human Rights

SCHUMAN REPLIES

Toronto

■ I thank Judith Caesar and her students for their comments. To José Luis Díaz: According to James Ross of Human Rights Watch, the High Commissioner does not herself initiate formal investigations. However, she may request to go to a country to assess a human rights situation or order others to go on her behalf. Mary Robinson, the former high commissioner, did exactly this in Kosovo, meeting with officials and gathering information about the situation there.

According to a 1999 UN High Commission for Human Rights press release, "Ms Robinson said she was outraged by reports of a vicious and systemic campaign conducted by Serbian military forces in Kosovo.... The High Commissioner requested the special rapporteur on the situation of human rights in the former Yugoslavia to travel to the region to make a first-hand assessment of the situation. She asked the Special Representative on the situation of human rights in Rwanda to accompany him as her personal representative." At the behest of Kofi Annan, Robinson launched an investigation of Indonesian human rights abuses in East Timor. So, the commissioner does have the mandate to investigate human rights abuses if asked by the UN Secretary General. If not asked, she may still request a visit to a country to make a firsthand assessment and go there herself or be represented by others without prior UN approval. MILES SCHUMAN

GRAND GUIGNOL OLD PARTY

Chelmsford, Mass.

■ A sentence by Michael Ybarra in your January 24 Letters column rang a bell: "The Communist Party was a unique challenge precisely because it was not primarily a political entity but rather simultaneously a political entity and a conspiracy." To what extent would the statement be true if "Republican Party" were substituted for "Communist Party"? I forbear to cite the many instances of public deception, covert totalitarian practice and secret manipulation that seem to prove the case. ROBERT COLTMAN

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BOOKS & THE ARTS

In the Penal Colony

LISA HAJJAR

Alberto Gonzales's nomination to succeed John Ashcroft as Attorney General put the Abu Ghraib torture scandal back on the front pages, since he was directly implicated, as White House counsel, in the formulation of policies authorizing and justifying the mistreatment of prisoners that paved the road to Abu Ghraib. During his confirmation hearing before the Senate Judiciary Committee, Gonzales was grilled about his judgment and views on torture. His responses were emblematic of the Bush Administration's "never say sorry" record: While he expressed the requisite abhorrence of torture, he refused to give Republican Senator Lindsey Graham and others what they wanted: a clear repudiation of the reasoning in the infamous "torture memos" that were declassified in the wake of the Abu Ghraib scandal.

A good deal of credit for the political pressure to release the torture memos belongs to *New Yorker* writer Seymour Hersh. His April 30, 2004, report on the Abu Ghraib prison investigation by Maj. Gen. Antonio Taguba provided a deeper context for the shocking photos televised one day earlier on CBS's *60 Minutes II*. Taguba had discovered not only deplorable conditions and chaos but unlawful interrogation tactics and patterns of prisoner treatment linking Iraq to Afghanistan and Guantánamo. Hersh's exposé jolted Congress into bipartisan—if short-lived—action; the Senate Armed Services Committee called for Bush Administration officials to do more than blame a few "bad apples," and the dissembling, evasiveness and, in Ashcroft's case, stonewalling merely increased pressure on the Administration to come clean. In June the first batch of secret memos was released, and multiple official investigations were tasked to report on detention and interrogation policies and practices. This documentary record failed to provide the vaunted cleansing, but it has substantially enriched our understanding of the history of the present.

That Hersh broke the Abu Ghraib story is no surprise, since he is unrivaled among American investigative journalists as a leak magnet for disgruntled insiders and whistleblowing frontliners. His book *Chain of Command: The Road From 9/11 to Abu Ghraib*, provides a clear-eyed and sweeping survey of the terrain of American policy and the dispositions and activities of its makers. The use of torture, Hersh argues, began in Afghanistan, where Pentagon civilians sought to transform what they viewed as an "overly cautious" military culture, and spread in the late summer of 2003 to Iraq, where a growing insurgency fed desperation for "actionable intelligence." The larger question that Hersh's book raises is: How did a small group of neoconservatives come to monopolize and radically reshape US policy, intimidate the press, mislead Congress and dominate the military?

Since the Abu Ghraib revelations, reports of torture by American officers have multiplied, and the paper trail leads to the White House.

Good question, but while neoconservatism may help explain much about American military and foreign policy after 9/11, it doesn't account for the legal reasoning that set the conditions for the torture scandal. For that, we need to look to the Federalist Society, an organization established by right-wing lawyers in the early 1980s to redress "liberal bias" in American law schools and the legal profession. The thinking and influence of Federalist Society types who dominate legal positions (and judicial appointments) in the Bush Administration are laid bare in the torture memos, which document the triumph of international law–averse officials in the Justice Department, the Pentagon and the White House over dissenting voices in the State Department and sectors of the professional military. The victors'

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most egregious mistake was to conflate international humanitarian law—the laws of war—with other bodies of international law, especially human rights law, which they loathe as constraints on US sovereignty.

The Torture Papers, edited by Karen Greenberg and Joshua Dratel, reproduces many of the torture memos as well as reports of four military investigations (Taguba, Mikolashek, Schlesinger and Fay-Jones) and a February 2004 report by the International Committee of the Red Cross (ICRC). *Torture and Truth* presents fewer memos and reports, but offers a collection of Abu Ghraib photos, affidavits of some Iraqi victims and editor Mark Danner's incisive analysis, which originally appeared in the *New York Review of Books*. Danner relates and compares the "logic of torture" in the current American wars to what happened in Vietnam, French Algeria, Northern Ireland and Israel/Palestine. Part of this history, he explains, entailed the evolution of torture tactics from sanguinary violence to methods that manipulate the body to break the mind but leave no marks.

The primary documents in these two collections—memos and interrogation policy directives—were written over the span of two years to guide and wage the "global war on terror" (or GWOT, the official acronym). The earliest memos, dating from late December 2001 and early January 2002, introduced the rationale for declaring the Geneva Conventions inapplicable and the advantages of Guantánamo as a prison and interrogation center. The principal intellectual author of these and many subsequent memos is John Yoo, a University of California, Berkeley, law professor who served in the Justice Department's Office of Legal Counsel from 2001 to 2003. Yoo and his OLC colleagues reasoned that the President has the constitutional authority to declare the Geneva Conventions irrelevant to the war in Afghanistan on the grounds that it is a "failed state," and to deny prisoner of war status to the Taliban and Al Qaeda as nonstate actors and terrorists who have no rights under international humanitarian law. Such a declaration would increase flexibility for harsh interrogation, reduce the risk that Americans could be prosecuted for torture or war crimes, and enable captives to be transported to Guantánamo (or other US-controlled secret detention facilities), where they would have no habeas corpus rights and could be held incommunicado indefinitely. While the OLC lawyers hedged their views as legal opinions, a January 25, 2002, memo from Gonzales to President Bush characterized their positions as "definitive," while noting that the State Department disagreed. (The *Washington Post* reported on January 5, 2005, that this memo was ghostwritten by Vice President Dick Cheney's counsel David Addington.)

Gonzales counseled the President that there is no crime if there is no law, one good reason to declare the Geneva Conventions "obsolete." To drive home the point, he noted that the War Crimes Act of 1996, which gives domestic courts jurisdiction to prosecute Americans or anyone else for grave breaches of the Geneva Conventions, carries penalties up to the death penalty. He added, forebodingly: "It is difficult to predict the motives of prosecutors and independent counsels who may in the future decide to pursue unwarranted charges based on [the War Crimes Act]." Immediately after, Secretary of State Colin Powell sent a memo to Gonzales criticizing the faultiness and dangers of this reasoning. Perhaps with the "Pinochet precedent" (i.e., no sovereign immunity for torture) in mind, he warned that if the United States declined to adhere to the Geneva Conventions, the effect might be to "provoke some individual foreign prosecutors to investigate and prosecute our officials and troops."

Ashcroft weighed in with his own memo on February 1, presenting the President with two clear choices: A "presidential determination" that the Geneva Conventions are inapplicable (i.e., the OLC position) would have status as the law of the land, and this would insure that no court would be able to "entertain charges" against American military officers, intelligence agents or law-enforcement officials for any violations. A "presidential interpretation" that the Geneva Conventions apply, even if POW status was not extended to the Taliban (i.e., the State Department position), would put US officials and agents at risk because courts "occasionally refuse to defer to presidential interpretation." Ashcroft was goading the President with the bogyman of "activist judges," a Federalist Society obsession.

The prospect that the OLC's line of reasoning might prevail raised alarms at the State Department, evident in a February 2 memo by legal adviser William Taft IV to Gonzales: "A decision that the Conventions apply...demonstrates that the United States bases its conduct not just on its policy preferences but on its international legal obligations." Five days later, in a resounding defeat for the State Department, President Bush endorsed the OLC's analysis in a secret memorandum to his National Security team, while seeking to mollify the losers with the line that US forces "shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva." Since all these memos were classified at the time, the public was only aware of the outcomes—no Geneva Conventions, no prisoner status review hearings, no habeas corpus or judicial oversight—not the legal reasoning or ideological preferences and panics that produced them.

Almost immediately after the first US forces hit the ground in Afghanistan in October 2001, questions arose about whether prisoners would be tortured for information and what would constitute humane treatment. Public debate heated up with the publication in January 2002 of trophy-shot photos of the first group of hooded, bound and contorted prisoners being transported from Afghanistan and

BOOKS DISCUSSED IN THIS ESSAY

CHAIN OF COMMAND: The Road From 9/11 to Abu Ghraib.
By Seymour Hersh.
HarperCollins. 394 pp. $25.95.

THE TORTURE PAPERS: The Road to Abu Ghraib.
Edited by Karen J. Greenberg and Joshua L. Dratel.
Cambridge. 1,284 pp. $50.

TORTURE AND TRUTH: America, Abu Ghraib and the War on Terror.
By Mark Danner.
New York Review Books. 580 pp. Paper $19.95.

TORTURE: A Collection.
Edited by Sanford Levinson.
Oxford. 319 pp. $29.95.

THE INTERROGATORS: Inside the Secret War Against Al-Qaeda.
By Chris Mackey and Greg Miller.
Little, Brown. 484 pp. $25.95.

GUANTANAMO: The War on Human Rights.
By David Rose.
New Press. 160 pp. $21.95.

GUANTANAMO: What the World Should Know.
By Michael Ratner and Ellen Ray.
Chelsea Green. 161 pp. Paper $15.

THE ABU GHRAIB INVESTIGATIONS: The Official Reports of the Independent Panel and the Pentagon on the Shocking Prisoner Abuse in Iraq.
Edited by Steven Strasser.
Public Affairs. 175 pp. Paper $14.

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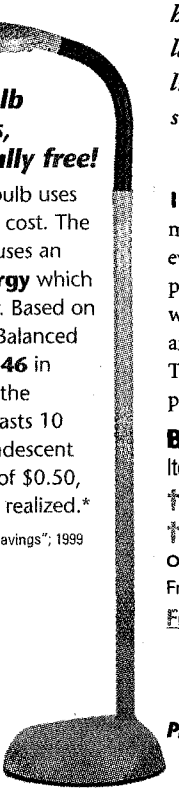

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inside the Guantánamo prison. Defending their treatment at a Pentagon press conference on January 12, Gen. Richard Myers, chairman of the Joint Chiefs of Staff, characterized the detainees as people who "would gnaw through hydraulic lines at the back of a C-17 to bring it down."

Through the end of 2002, public information about interrogation tactics remained scant, and debates about torture were largely academic. Even supposedly "liberal" commentators, invoking the hypothetical ticking bomb scenario, railed against the absolute and universal prohibition of torture as immoral and dangerous. Harvard law professor Alan Dershowitz made a distinctive contribution to public debate by proposing that American judges issue "torture warrants," thus bringing torture "within the law." He also offered a tactical suggestion: sterilized needles under the fingernails. As he told *Salon*: "I want maximal pain, minimum lethality."

Harvard law professor Alan Dershowitz suggested sterilized needles under suspects' fingernails for 'maximal pain, minimum lethality.'

Dershowitz and other proponents of "torture lite" were not suggesting that the American government should forsake the principle that torture is illegal, but rather that the principle could be suspended in the GWOT on the grounds that torture is a lesser evil than terror, and that terrorists have no right not to be tortured. This echoed the rhetoric and policy that "unlawful combatants" were undeserving of inclusion in the universe of human beings covered by international and domestic laws that categorically prohibit torture. Human Rights Watch executive director Kenneth Roth and other critics of coercive interrogations argued that torture is an illegal, desperate and patently unreliable means of obtaining accurate information vital to national security, and that opening the door to it is a dangerous slippery slope.

Interestingly, the example of Israel was invoked by lesser evilers and slippery slopers alike. The latter pointed to the fact that torturing tens of thousands of Palestinians over the past few decades had neither ameliorated the conflict nor enhanced Israeli security; rather it had heightened Israeli insecurity and degraded the legal system. According to Yael Stein, a researcher at the Israeli human rights organization B'Tselem, "Israel's experience shows you can't stop the slippery slope: they tortured almost all the Palestinians they could.... The moment you start, you can't stop." Lesser evilers, including Dershowitz, argued that Israel had preserved its democratic character by legally regulating torture (euphemistically termed "moderate measure of physical pressure") and that its security services had averted many "ticking bombs." The 1999 Israeli High Court decision that prohibited the routine use of "pressure" but left open the possibility of using it in exceptional circumstances played both ways in the American debate on torture. An excellent cross-section of academic analyses of torture, as well as the text of the 1999 Israeli court decision, is presented in Sanford Levinson's *Torture: A Collection*, whose seventeen contributors include Dershowitz, Elaine Scarry, Judge Richard Posner and Michael Walzer.

Public knowledge of US interrogation practices was transformed by a December 26, 2002, article by Dana Priest and Barton Gellman in the *Washington Post*. Officials revealed that US security agents were utilizing "stress and duress" tactics in the interrogation of people captured in Afghanistan and elsewhere, and that detainees who could not be broken by such methods might be given mind-altering drugs or "rendered" to foreign governments with well-established records of torture, like Egypt and Morocco. According to Priest and Gellman, "While the US government publicly denounces the use of torture, each of the current national security officials interviewed for this article defended the use of violence against captives as just and necessary. They expressed confidence that the American public would back their view."

Several new books present a wealth of detail about interrogation in Afghanistan and Guantánamo, including firsthand descriptions of protracted hooding, deprivation of sleep and toilet facilities, forced nakedness and recurrent cavity searches, position abuse such as chaining and tying prisoners to chairs or hooks in the floor, and manipulation of lighting, sound, temperature, food and medicine. *The Interrogators: Inside the Secret War Against al-Qaeda*, by Sergeant First Class Chris Mackey (a pseudonym), written with *Los Angeles Times* reporter Greg Miller, is an account of interrogation at Kandahar and Bagram during the first year of the GWOT. Mackey describes his training as a military interrogator at Fort Huachuca, the deployment of his reserve unit after 9/11 and how he wrestled with his conscience and his colleagues about how to balance Geneva Convention rules with intense pressure from Washington for actionable intelligence. From his vantage point, this really was a "new kind of war" because military interrogation techniques devised in the cold war had to be rewritten to "break" the prisoners in Afghanistan. Mackey is bluntly critical of certain aspects of the war, acknowledging the difficulties in trying to distinguish members of Al Qaeda and the Taliban from innocents handed to US soldiers for bounty, as well as the risks of relying on privately contracted translators. Yet he seems unaware that threats to turn prisoners over to other countries for torture were not idle; he and his colleagues found this to be a successful "fear up harsh" tactic because it tapped into the anxieties of "conspiracy-obsessed Arabs." Among the prisoners he encountered were three from Britain, nicknamed by guards "the Beatles," whose accounts about how they had landed in Afghanistan and then in US custody he found "outrageous" and "comical."

These so-called Beatles were Asif Iqbal, Shafiq Rasul and Ruhal Ahmed, and their story is movingly told by David Rose in *Guantanamo: The War on Human Rights*. Mackey is half-right: Their experiences are outrageous. As the three men recounted to Rose, they had gone to Pakistan in September 2001 for Iqbal's arranged marriage and had ventured into Afghanistan in October, naïvely believing they could use their trip money to provide humanitarian aid for a country about to be attacked. When the war started, they were captured by Northern Alliance warlord Rashid Dostum's troops while trying to flee the country and were among the few to survive transport in truck containers to Shebargan prison. In late December 2001 they met ICRC representatives who reported their British identity to guards, at which point they were sent to the US-controlled prison in Kandahar. They were among the first to be sent to Guantánamo in early 2002, where they were interrogated hundreds of times and eventually released and repatriated to Britain in March 2004. Rose's *Guantanamo* combines a harrowing account of physical and psychological abuse from these and other former prisoners' perspectives with a finely honed analysis of the policies governing the lawless world of "Gitmo." As he explains, the degradation and desperation of prisoners gave rise, inevitably, to attempted suicides; by the end of September 2003, the official tally was thirty-two attempts, at which point they were reclassified as "manipulative self-injurious behavior."

Guantanamo: What the World Should Know, by Michael Ratner and Ellen Ray, also features the Britons. Two of the three

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Relaxation therapy for your feet

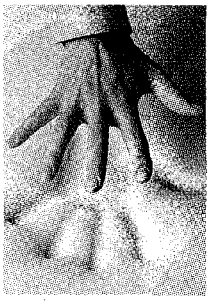
Visco-elastic foam has changed the way people sleep, now it helps the way you walk.

by Leigh Ligon

My feet hurt! How many times have you heard *or* said that...standing in line at the grocery store or simply while doing daily routine tasks? I feel like the older I get the more my feet ache. I've tried elevating my feet, soaking them in hot water and expensive massage therapy—but to no avail. That's why I'm so excited to tell you about my recent discovery—CLOUD 10 Slippers!

How did a NASA invention save my feet? From the moment I slipped them on, they molded to the shape of my feet like I had a custom fit pair of slippers made especially for me! The slipper's insole is made from visco-elastic memory foam originally created by NASA. This foam equalizes pressure, reduces stress and tension and provides incredible comfort.

According to the American Podiatric Medical Association, as people age, their feet tend to spread, and lose the fatty pads that cushion the bottom of the feet. Additional weight can affect the bone and ligament structure. These slippers mold to the contours of my feet through my body's heat and weight, literally cushioning every single step I take.



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I've heard about similar kinds of slippers, but I couldn't afford to spend nearly $70 a pair. The Cloud 10 Slippers were a much better fit for my budget. The outer material of these stylish slippers is beautiful tan faux suede and they feature a cozy, fleece-lined interior and collar to provide added warmth. The durable rubber sole is perfect for my quick trips outdoors to grab the morning paper.

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- *Super-soft, fleece lining provides added warmth*
- *Durable rubber sole—perfect for quick outdoor trips!*

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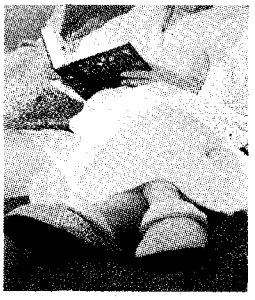

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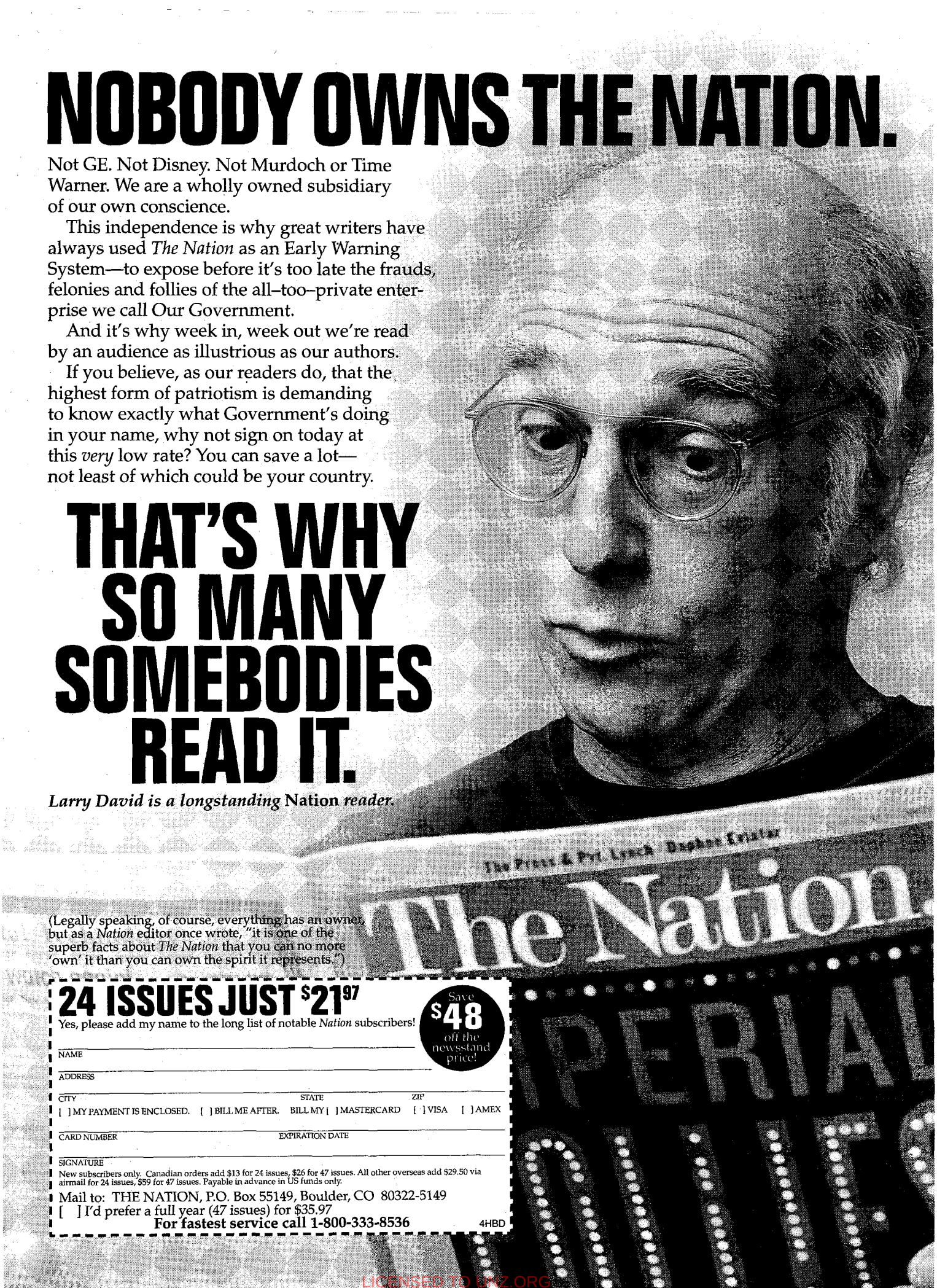

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are among the prisoners represented by Ratner, a human rights lawyer and president of the Center for Constitutional Rights (CCR). Written in the style of an interview, Ratner and Ray's book combines a primer on the history of Guantánamo and the laws of war with an insider's account of the legal battles that led eventually to the Supreme Court. It went to press before the June 2004 decision in the Guantánamo cases, but Ratner predicted correctly that a majority of Justices would not defer to executive power and permit indefinite incommunicado detention of prisoners without rights to a hearing.

The Interrogators and the two *Guantanamos* confirm the fraudulence of official pronouncements about humane treatment and commitment to the "spirit" of Geneva. They also substantiate revelations throughout 2003 and early 2004 by investigative journalists and human rights organizations that US agents were routinely subjecting prisoners to protracted hooding and isolation, stress positions and sleep deprivation, and more extreme tactics such as "waterboarding" against "high value targets." Before the Abu Ghraib scandal, however, when officials from the Pentagon and the White House were questioned about such tactics at press conferences, they answered in a manner that the sociologist Stanley Cohen characterized as "interpretive denial." Having concluded that these tactics did not constitute "torture" and were therefore not "illegal," they readily acknowledged and justified their use. The rationale for this conclusion lies in the most scandalous of all the torture memos, dated August 1, 2002, to Gonzales from then–Assistant Attorney General Jay Bybee (subsequently appointed as a federal judge to the Ninth Circuit Court). But credit for intellectual authorship goes to Yoo and the OLC.

The background to this memo was a request by the CIA for an opinion on the legality of interrogation tactics already in use against prisoners held in Afghanistan and elsewhere. Hence, the main issue to which the authors devoted themselves was where to draw the line between "torture" and "not torture" in accordance with Title 18 of the US Code Section 2340, which implements the UN Torture Convention (ratified by Congress in 1994). The criminality of torture looms so large in the analysis that the imagined subject is repeatedly referred to as "the defendant."

The August 1 memo reads like a Federalist Society lesson plan. *Lesson 1:* US sovereignty is paramount and US law is the only relevant reference. In defining torture, the authors ignored human rights literature and international jurisprudence on torture, opting instead to comb the US record, where the only reference to "severe pain" could be found in laws governing emergency medical care. Hence the assertion that "physical pain amounting to torture must be equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death." For mental pain or suffering, the authors fixated on the term "prolonged" in the phrase "prolonged mental harm." Finding no reference to this phrase in US case law, they drew upon dictionaries and medical reference books to conclude that, to rise to the level of punishable torture, the "harm must cause some lasting, though not necessarily permanent, damage.... The development of a mental disorder such as posttraumatic stress disorder, which can last months or even years, or even chronic depression, which also can last for a considerable period of time if untreated, might satisfy the prolonged harm requirement."

Despite the abundant evidence of torture, Congress refuses to challenge the White House's denials in any meaningful way.

The OLC lawyers also surveyed the record of judicial decisions in Torture Victims Protection Act (TVPA) cases, finding that federal courts had provided a civil remedy for victims who sued their foreign torturers for severe beatings, mock executions, burning with cigarettes, electric shocks, rape or sexual assault or injury to sex organs, and forcing a prisoner to watch the torture of others. But they added that these TVPA cases were not definitive for their own purposes because there are no US cases "that analyze the lowest boundary of what constitutes torture."

Since the "lowest boundary" would be, in their estimation, the line between "torture" and "not torture," between "crime" and "not crime," they turned for inspiration to two US allies: Britain and Israel. More specifically, they reproduced Israel's potted reasoning from the late 1980s that "moderate physical pressure" does not constitute "torture," which itself draws on the 1977 *Ireland v. United Kingdom* case before the European Court of Human Rights. However, the OLC lawyers did not acknowledge (because the Israelis hadn't, either) that Britain renounced the use of the "five techniques" on the grounds that they constitute cruel, inhumane and degrading treatment, and therefore are illegal.

Lesson 2: Adopt a formalistic approach to law and exalt original intent. The OLC lawyers interpreted Congressional intent in passing the federal torture statute to exclude cruel, inhumane and degrading treatment of foreign enemies as prosecutable offenses, making it, therefore, "legal." The memo then lays out two additional lines of reasoning on how the prohibition of torture could be skirted and prosecution avoided.

Lesson 3: The President's commander-in-chief powers vest him with unbridled discretion to wage war. The authors interpreted executive power to include the "right" to authorize torture. "Even if an interrogation method arguably were to violate Section 2340A, the statute would be unconstitutional if it impermissibly encroached on the President's constitutional power to conduct a military campaign." But just in case the "constitutional infringement" argument did not fly, they suggested a line of defense that Americans charged with torture could marshal if prosecuted. For this, they turned again to the Israeli model—circa 1987—to argue that national security necessitates, and therefore legitimizes, physical and psychological coercion in the interrogation of unlawful combatants. The memo's final statement reads: "Even if an interrogation method might violate Section 2340A, necessity or self-defense could provide justifications that would eliminate any criminal liability." Thus they not only ignored the 1999 Israeli High Court ruling repudiating this reasoning but tried to realize the right-wing fantasy of negating post–World War II international law limiting and regulating what states can do to people in wartime.

The Pentagon civilians apparently found the August 1 memo so persuasive that they adopted it for the development of interrogation guidelines for "counter-resistance techniques." In December 2002, responding to interrogators' frustrations about not getting good intelligence out of prisoners, Rumsfeld charged a working group with responsibility to clarify and categorize interrogation tactics for the GWOT. Some of the military lawyers assigned to this group protested that coercing prisoners would not only pose a threat to military culture but, if it became public, would diminish support for the war. Pentagon general counsel William Haynes (who has subsequently been renominated for a federal judgeship; his nomination last year was blocked by a filibuster) insisted that the working group accept the reasoning of the August 1 memo. Consequently, the April 2003 report of the working group, which is reprinted in *The*

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Torture Papers, includes sections of the memo verbatim, along with what amounts to a rebuttal of its reasoning as contrary to the Uniform Code of Military Justice, making the report itself legally "schizophrenic."

The April report, which became the official policy directive for interrogation, raised serious concerns among military lawyers in the office of the Judge Advocate General. As Seymour Hersh writes, in the summer of 2003 several members of the JAG corps met secretly with Scott Horton, then head of the human rights division of the New York City Bar Association, to consult about the legal implications of officially sanctioned torture. Although Horton preserved their confidentiality, he and other lawyers escalated a public campaign to call for transparency and legality in interrogation tactics. *The Torture Papers* includes a sharp legal analysis of the issues by Horton and others that was submitted in April 2004 to the NYC Bar Association.

By the late summer of 2003, the escalation of bombings, kidnappings and executions in Iraq had made a mockery of the President's claim in May that the mission had been "accomplished." In August the Pentagon sent Guantánamo commander Maj. Gen. Geoffrey Miller and a team to Iraq; their advice on how to "set the conditions" to soften and break prisoners inspired Lt. Gen. Ricardo Sanchez to sign off on a policy to "Gitmo-ize" Iraqi prisons, despite the fact that up to 90 percent of those in custody were picked up in military sweeps or as a result of intra-Iraqi score-settling and had no connection to the resistance, let alone to Al Qaeda. These events set the stage for the Abu Ghraib photos, taken between October and December 2003, and their publication caused the scandal that brought the torture memos to light and propelled the official investigations.

The "migration" of interrogation tactics authorized for Guantánamo and Afghanistan, where the Geneva Conventions putatively do not apply, to Iraq, where they indisputably do, are discussed in Hersh's and Danner's books, and are a key focus of the reports by James Schlesinger, who headed the Independent Panel to Review Defense Department Detention Operations, and Maj. Gen. George Fay, who investigated the 205th Military Intelligence Brigade serving in Abu Ghraib. The latter two are available in *The Abu Ghraib Investigations*, edited by Steven Strasser.

This documentary record debunks the "bad apple" theory and provides a cautionary tale of the national disgraces that can result when military policy is made under the sway of right-wing extremists who are ignorant about and hostile to international humanitarian law. Even a reluctant critic like Schlesinger chastised Rumsfeld for not entertaining a wider range of legal opinions and a more robust debate regarding the handling and interrogation of prisoners, which might provide some cold comfort for Colin Powell and other internal dissenters who were excluded, after February 2002, from the circles where these disastrous policies were made.

The American torture scandal, to paraphrase Faulkner, is not dead; it's not even past. Every day brings news of additional allegations and revelations. In recent weeks thousands of pages of military and FBI reports and prisoner affidavits about abuses in Afghanistan, Guantánamo and Iraq have become public, thanks to Freedom of Information requests by the American Civil Liberties Union. The Center for Constitutional Rights and other human rights organizations have mounted a multitude of lawsuits in the United States and elsewhere on behalf of victims of torture to challenge the impunity of Rumsfeld and others who should be held accountable for instituting and overseeing these illegal policies.

There is no reason to doubt that torture has been systemic and pervasive, or that authorization can be traced up the chain of command, or that this has seriously damaged not only the immediate victims but also our national institutions and America's image abroad. Yet top officials in the Bush Administration are still doing what torturing regimes do: denying the facts and blaming "rogue" officers. Despite the abundant evidence of torture, Congress refuses to challenge these denial tactics in any meaningful way, for example by refusing to confirm for high office those responsible. What we desperately need is public acknowledgment that torture is always and everywhere a crime, and an official policy that reflects this conviction. ■

Men in Dark Times

RUSSELL JACOBY

THE NEW LEFT AND THE 1960s: Collected Papers of Herbert Marcuse, Volume 3.
Edited by Douglas Kellner. Routledge. 288 pp. $69.95.

ADORNO: A Political Biography.
By Lorenz Jäger. Translated by Stewart Spencer. Yale. 235 pp. $32.

"I am very happy to see so many flowers here and that is why I want to remind you that flowers, by themselves, have no power whatsoever, other than the power of men and women who protect them and take care of them against aggression and destruction." These were the words of Herbert Marcuse, who was addressing a packed auditorium at a "Dialectics of Liberation" conference almost forty years ago. The point still stands, but Marcuse, who briefly commanded the world's attention as a New Left guru, has faded from sight. Born in 1898, Marcuse belonged to a generation of German Jewish intellectuals who fled to the United States. Some of these figures—Hannah Arendt, Albert Einstein—became cultural icons in the New World. Others vanished into the margins of American life; still others, unnoticed here, returned to Europe after the war to find acclaim. In this last group was Theodor Adorno, whose life and work have elicited increasing interest.

Adorno and Marcuse were linked by their role in what has become known as the "Frankfurt School," a loose association of scholars based in Frankfurt, Germany, in the early 1930s, who developed a "critical theory"of society. For critics on the right, critical theory served as a polite term for Marxism at best and Stalinism at worst. For critics on the left, critical theory spelled the neutering of Marxism. Georg Lukács, the great Hungarian Communist philosopher, famously derided the Frankfurt scholars as residents of the "Grand Hotel Abyss." Presumably, they preferred contemplating the decline of capitalism from luxurious suites rather than from the gritty streets of the proletariat.

To be sure, the Frankfurt scholars were hardly proletarians. Then again, neither was Lukács, the son of a banker. They were virtually all children of the assimilated German-Jewish middle class—including Adorno, who was born Theodor

Russell Jacoby teaches history at UCLA. His new book, Picture Imperfect: Utopian Thought for an Anti-Utopian Age, *will be published this spring by Columbia.*

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Wiesengrund-Adorno, the son of a successful Jewish wine merchant, Wiesengrund, and an Italian Catholic mother, Adorno. (He later abridged his name to T.W. Adorno.) Like Lukács, they wrote little about economics and much about literature, philosophy, psychology and art. Adorno himself studied composition and music with Alban Berg and Arnold Schoenberg. Fully a third of his voluminous writings concern music. The Frankfurt thinkers offered a high-octane Marxist theory that took up everything from Immanuel Kant's philosophy to the *Los Angeles Times*'s astrology column. For years the world hardly noticed, but by the 1960s their radical critique of society had found an audience.

For Americans, Marcuse proved the most popular of the Frankfurt figures at the time. Unlike Adorno, he remained in the United States after the war; he was also the most accessible, charismatic and political of the group. The titles of his first books indicate his sweep and straightforwardness—*Reason and Revolution* and *Eros and Civilization*. Some New Left intellectuals embraced Marcuse, who returned their embrace. One of his students at Brandeis abandoned her studies to join the black revolution. Angela Davis made headlines as an alleged accomplice to the jailhouse escape of the Soledad Brothers, for which she was pursued by the FBI, arrested and later acquitted of the charges. All of this added to the radical luster of Marcuse, who found himself hounded by conservative groups in San Diego, where he taught at the time.

Meanwhile, German students had discovered Adorno, and the re-established Frankfurt School. Yet the rapport between Adorno and the German students proved difficult. Perhaps because Adorno was reserved and the German students demanding, certain activists turned on him at the height of the 1960s. They attacked him as a bourgeois sellout; they interrupted his classes and "occupied" the Frankfurt School building. He in turn assailed their tactics and their lazy use of the term "fascism." Disturbed by the conflict and exhausted from work, Adorno died in 1969 of a heart attack. He was 65.

Adorno had entreated Marcuse to come to Frankfurt to help mend the breach with the students. But if Adorno once stood in the shadow of Marcuse, today it is the reverse. While a few studies of Marcuse have appeared, and his collected papers are being published, a tidal wave of publishing engulfs Adorno. His German publisher, the distinguished Suhrkamp Verlag, has issued ten books on or by Adorno in the last two years alone. His collected works number twenty fat volumes. His lectures, notes and sketches now finding their way into print come to almost thirty volumes; and they do not include his letters, at least another six books. In sum, Adorno's writings consist of fifty-six volumes, a number dwarfed by the books about him. Lorenz Jäger's is one of three biographies of Adorno that have recently appeared.

Why the hoopla? The short answer is that 2003 was Adorno's centenary. The long answer is his sheer intelligence and scope. When Thomas Mann enlisted him to help on the musical sections of his novel *Doctor Faustus*, he called him "uncompromisingly, tragically brilliant, operating on the highest level." Referring to Adorno by his nickname, Marcuse himself used to insist that "Teddie, you know, was a genius." Adorno, moreover, was the furthest thing from a publish-or-perish academic churning out indifferent prose. His writings do not consist of belabored arguments but of polemics, firecrackers and *aperçus*. His sentences often sizzle. "Kafka scrutinizes the smudges left behind in the deluxe edition of the book of life by the fingers of power," he writes in his breathtaking essay on Kafka in the collection *Prisms*. The opening sentences of

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Prisms capture the mix of high culture and low materialism that drives his critics to distraction and his supporters to adoration:

> To anyone in the habit of thinking with his ears, the words "cultural criticism" (*Kulturkritik*) must have an offensive ring, not merely because, like "automobile," they are pieced together from Latin and Greek. The words recall a flagrant contradiction. The cultural critic is not happy with civilization, to which alone he owes his discontent.

Next to Adorno's linguistic and conceptual pyrotechnics, Marcuse appears almost drab, which might explain the ebbing interest in his work. Yet Marcuse is not drab, and the reasons for his eclipse by Adorno may lie elsewhere. Thomas Mann compared Adorno to Walter Benjamin, the Frankfurt associate who died in 1940 fleeing the Nazis. The number of studies of Benjamin, like those of Adorno, has soared. Academic critics brighten their gray pages with citations of him. Yet it may not only be the depth of Benjamin's work that inspires glossing but its esotericism. Cynics are not the only ones to observe that the academic industry demands opaque texts. Benjamin fills the bill, as Adorno does occasionally. Marcuse generally does not. Plain writing affords too few toeholds for academic climbers. Consider, for example, the fate of the great American critic Edmund Wilson, the same generation as Marcuse. He has virtually disappeared as an object of professional study or interest—perhaps for the same reason as Marcuse. For academic critics, he is too lucid.

Unfortunately, *The New Left and the 1960s*, the third volume of Marcuse's collected papers, almost confirms academic prejudice; it does seem a bit flat. Nor does it help that Marcuse's loyal editor, Douglas Kellner, uses as the book's introduction an unedited—and previously published—talk by Angela Davis. ("At this point in my remarks I would like to make some comments about my own development.") The volume contains speeches, interviews and short essays of Marcuse on student protest, the war in Vietnam, violence and women's liberation—plus some mysterious choices, such as a statement by the philosopher's colleagues congratulating him on his 70th birthday.

The selections breathe of another time, when the left presented a real opposition. Simply the notion that Marcuse could address a vast and political crowd with a "philosophical speech" suggests the divide between then and now. Marcuse brought a forceful clarity to the leftist table, a classical Marxism willing to confront new realities. Several of his recurring points are worth remembering today. One is his acknowledgment of periodic retreat and confusion. "The Left is split! The Left has always been split! Only the Right, which has no ideas to fight for, is united!" Another is the kindred belief that the left cannot confine itself to economic analyses. "We must finally relearn what we forgot...that humanitarian and moral arguments are not merely deceitful ideology. Rather, they can and must become central social forces. If we exclude them from our argumentation at the start, we impoverish ourselves." A third is his unapologetic admission that the left—at least for the moment—stands not simply against the established political order but against the majority that supports it. The student movement of the 1960s, he stated, "is an opposition against the majority of the population." Finally, Marcuse affirmed that a new society requires not simply new structures but new individuals who viscerally need peace and beauty.

The editors of a 1967 volume honoring Marcuse rejected Adorno's submission; it was apparently too abstract or dense. To be sure, Adorno's work often requires a commitment that Americans might not brook. As the historian Martin Jay noted in his book on Adorno, the Frankfurt philosopher would be "appalled at a book of this kind devoted to him." Adorno scorned summaries and shortcuts. Yet the contrary idea, that Adorno is involuted or unreadable, must be equally rejected. Versions of this notion circulate among professors who offer it as an excuse for their own fractured prose. When a semi-serious "Bad Writing Contest" awarded first prize to the feminist theorist Judith Butler, she responded by citing Adorno in her defense. The professoriate often confounds unreadability and profundity. Adorno himself stood at the furthest remove from jargon. "Precisely the writer," he noted in his haunting book of aphorisms, *Minima Moralia*, "most unwilling to make concessions to drab common sense must guard against draping ideas, in themselves banal, in the appurtenances of style." Moreover, hardly a specialist professor spurning the unschooled, Adorno devoted much time and energy to journalistic activities and delivered more than 160 lectures on German radio. By the time of his death he was a well-known figure in print and radio.

In a little more than 200 pages of text Lorenz Jäger, an editor at the well-regarded Frankfurt daily newspaper *Frankfurter Allgemeine Zeitung*, gives an overview of Adorno's life. There is much to like in this book. Jäger deftly sketches out the background, the friends and some major themes of Adorno's work. There is more to dislike. Jäger deplores Adorno's politics and intellectual project; he wants to show that Adorno mined a depleted field—neo-Marxism—and that at his best he represented a laudable German philosophy that worshiped nature. On other subjects Adorno was wrong or misleading. Jäger plots Adorno's intellectual coordinates in order to dispatch him. In Jäger's summary, the more Adorno's Marxist ideas proved implausible, the more they sought to explain. By the time of his death, Adorno's "theory was already exhausted." The movements of art, modernism, philosophy and social theory rendered Adorno "outdated." If this is so, why does Adorno attract more and more attention?

Jäger drums up every line by or about Adorno that casts him in a bad light. For instance, he cites a sentence from Adorno's diary jottings—certainly not written to be published—that seems to suggest coldness when he visited his aging mother after a long absence. Part of the sentence reads, "I have to thank her for everything in nature but do not feel it as such." For Jäger this cloudy sentence clearly damns Adorno. Its "importance...can scarcely be overstated," he writes. The opposite—its importance can scarcely be understated—would be more accurate.

Jäger's larger mission is to nail Adorno as a Marxist, pro-Soviet and even anti-German and anti-Christian thinker. Some idea of Jäger's own political sympathies can be gauged from his comments on Ernst von Salomon, author of the post–World War II German bestseller *The Questionnaire*, a satirical attack on the Allied de-Nazification program. Jäger describes von Salomon as someone who "leaned to the right." This is a curious description of a rabid nationalist who was jailed for abetting the assassination of the Jewish Foreign Minister Walther Rathenau in 1922. In fact, Jäger appears to share von Salomon's post–World War II politics. He raises several issues, which German nationalists have either invented or trumpeted, such as the mistreatment of German POWs by American and French forces and the starvation of the German population by the Allies after the war. Scholars have discredited both assertions. For Jäger both are indisputable. "It is beyond doubt that the famine suffered by the Germans in the immediate post-war period was the result of a deliberate policy."

These topics only enter Adorno's work peripherally—in his psychoanalytic reflections of public opinion—but Jäger wants to paint him as an apologist for Allied brutality. To do so, Jäger dances on the edge of revanchism. He writes that POWs held by the Allies "were fed and accommodated...such

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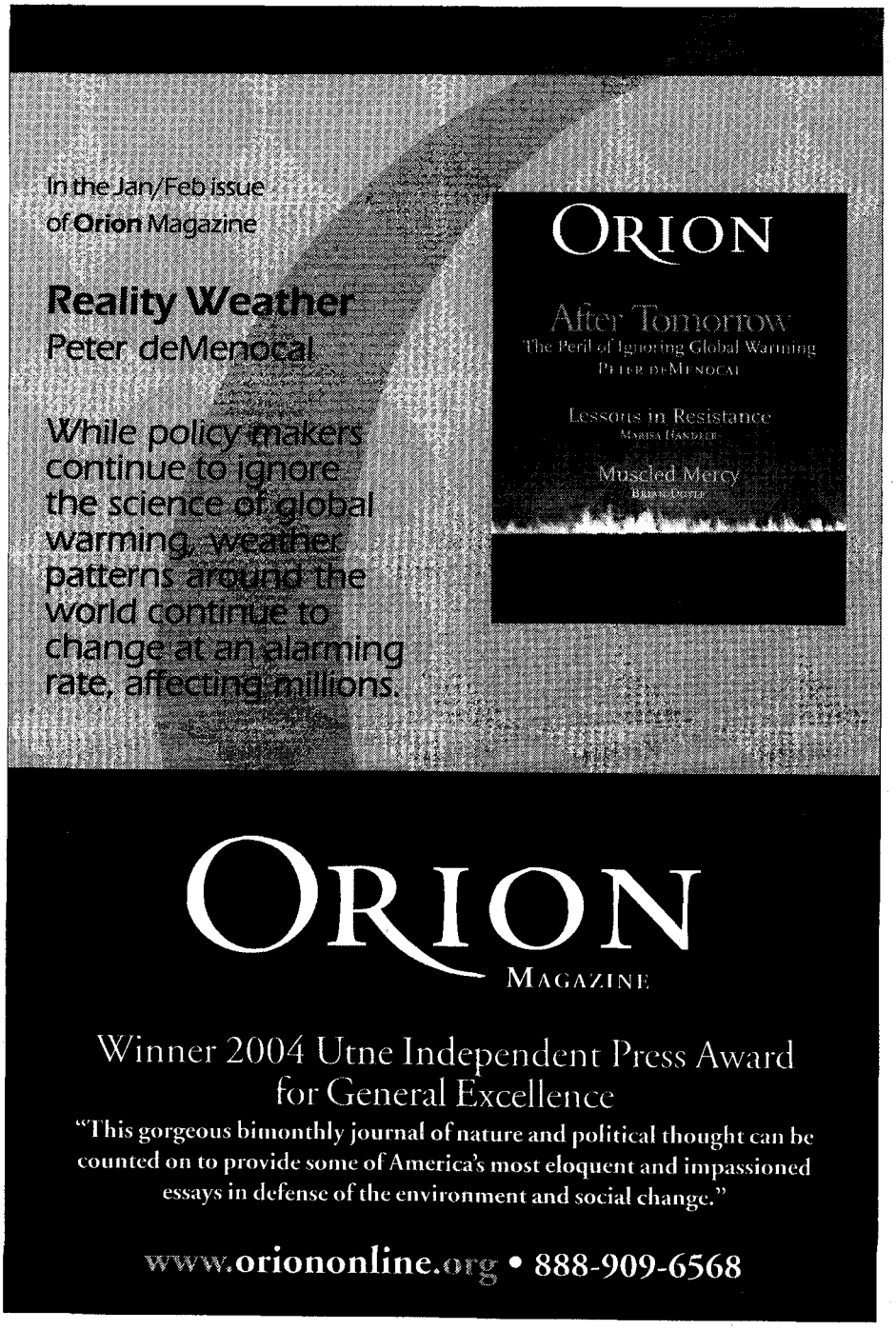
that people were soon drawing open comparisons with the Nazi camps." Who are these "people"? Jäger's careful footnoting ceases. He is upset that Adorno discounts the remarks of one POW, a declared Nazi, who claims that "no one in a concentration camp" can have "experienced anything worse than what they [the Americans] did to us." Jäger ratifies this dubious observation as "common knowledge." Among whom or on what basis? Jäger is mum.

In his articles and studies of postwar Germany Adorno addressed the selective memory of the Nazi past as well as the rationalization for past crimes that draws up "a balance sheet of guilt," as if the Allied bombing of Dresden "compensated" for Auschwitz. Adorno might be writing of Jäger, who indeed accuses Adorno of belittling the Dresden bombing. In the related and more famous book on the "authoritarian personality," Adorno and his colleagues sought to ferret out psychological dispositions, even the "potentially fascistic" individual, by eliciting responses to thirty-eight leading statements. By analyzing the responses, they hoped to sketch out a personality type prone to authoritarianism and racism. Two sentences from *The Authoritarian Personality* stated, "Too many people today are living in an unnatural, soft way; we should return to the fundamentals, to a more red-blooded, active way of life"; and "What this country needs is fewer laws and agencies, and more courageous, tireless, devoted leaders whom the people can put their faith in." On their own these propositions are hardly incriminating, but by analyzing longer discussions provoked by these statements Adorno adumbrated what he judged to be an authoritarian personality.

Jäger will have none of this. He considers *The Authoritarian Personality* a leftwing "Inquisition" of conservative and middle-class values. Jäger distorts Adorno's analysis by pretending that one of the statements ("there will always be wars and conflicts") trumps the others, and that Adorno would classify as a warmonger anyone who affirms the reality of war. "From now on, the patriotic and anti-Communist average American was to be regarded as a potential fascist...Adorno was engaged here in politically orchestrated sociological research." Of course, by the time Jäger reaches the 1960s he is pleased that the rebellious sons turn upon the father. For Jäger, Adorno "prepared the ground" for the notorious Commune One, a Berlin group that sought to destroy "the bourgeois family by carnevalistic means."

His resentful politics and eagerness to indict Adorno vitiate Jäger's "political biography." Fortunately, two other biographies soon to appear in English do Adorno more justice, the encyclopedic *Adorno* by Stefan Müller-Doohm and the graceful *Theodor W. Adorno: A Last Genius* by Detlev Claussen. But Jäger's book seems written to validate Adorno's suspicion of biography as a mode to circumvent thinking. His prologue closes with the remark that "none of us can escape from the circumstances of our birth," as if the fact that we are all born in a particular time and place proves our ideas must disappear with death. Jäger endeavors to demonstrate this, at least in regard to Adorno, but the truth lies elsewhere. The work that endures also transcends circumstances. Adorno's work is a case in point. The uninitiated need only peruse the aphorisms of *Minima Moralia* or the essays in *Prisms* or *Critical Models* to encounter ideas that have lost none of their power.

Adorno's final writings addressed this very issue. "What once was thought cogently must be thought elsewhere, by others: this confidence accompanies even the most solitary and powerless thought." This sentence comes from Adorno's "Resignation," a defense of untrammeled thinking that would be better titled "Against Resignation." In their commitment to a critical thought that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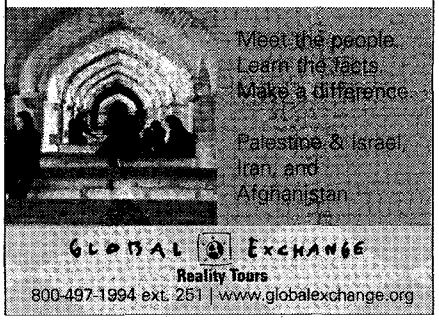

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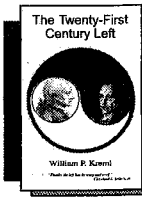

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resists false optimism and quick solutions, Adorno and Marcuse converge. Marcuse called himself a "hopeless philosopher." Yet he asserted that critical thinking harbors its own promise. To be sure, some of Marcuse's political pieces belong to a past era; and for all his brilliance, Adorno sometimes misses the mark, but in an age of retreat, their writings aid resistance to the politics of deceit and brutality. "Thinking is not the intellectual reproduction of what already exists anyway," Adorno wrote. Whoever believes as much, he noted, "has not resigned." Amen. ■

FILMS

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STUART KLAWANS

ASSAULT ON PRECINCT 13 • WATERMARKS

Half a century has passed since Manny Farber wrote in these pages about underground films, by which he meant the urban crime movies watched by male loiterers near the Greyhound station, in theaters whose dank gumminess rivaled that of the bus terminal's restrooms. The close fit among setting, audience and cinematic expression particularly recommended such movies to Farber, who recognized meaning and purpose where others saw only inadequacy. He noted, for example, that these so-called action pictures often showed little more than views of men standing around on a sidewalk, waiting for something to happen. The something, when it came, was often an inventive way to torture human flesh.

Very little changed in the world of movie-watching between the publication of that great essay and 1976, when *Assault on Precinct 13* first unspooled near America's bus terminals. All right, a lot had changed. The studio system was gone, a generation of film-school graduates was breaking into the big time, and a surprisingly large audience could now name the makers of Farber's underground movies and believed that these directors deserved the name of *auteur*. Still: Time in 1976 could be wasted as cheaply as in 1950 at a city-center moviehouse, if you weren't squeamish about the people sitting behind you, the stuff sucking at your shoes or the spasmodic shadows passing across the screen, made up half of existential dread and half of anomie. You paid a buck or so to get indoors, and *Assault on Precinct 13* showered you with an hour and a half of unreasoning, unstoppable blood lust, loosed from those imaginary ganglands of Los Angeles where the only stable, responsible types were those whose criminality had risen to the level of a career. As the story of a siege at a police station, the movie provided long stretches of dead time. As an updated and citified version of Howard Hawks's *Rio Bravo*, it also gave you glimpses of character, though without Hawks's warmth and breadth of vision. The approach was more like that of the Cossack narrator of one of Isaac Babel's *Red Cavalry* stories, who goes back to his village to confront the landowner: "I stomped him for an hour or more, and during that time I got to know something about him and his life."

This isn't to say that *Assault on Precinct 13* qualified as a classic. ("Archaizing" would have been a better word for its effect.) The picture was just something you could discover on your own, in a public place. Its maker, John Carpenter, had not yet achieved fame and riches through *Halloween*. The theaters where it showed had not yet split into multiplexes, with ticket prices in the double digits. The event-movie era, with its thrilling box-office reports, had barely begun; and "home video" still meant whatever the TV was broadcasting.

So the release of an all-star, Franco-American remake of *Assault on Precinct 13* is worth noting, as another milestone on our journey away from old-fashioned film culture.

Rather than being cast like the original, whose performers you will not be able to identify unless your name is Tarantino, the new *Assault on Precinct 13* may legitimately be said to star the actors Ethan Hawke and Laurence Fishburne, with John Leguizamo, Drea de Matteo, Maria Bello, Brian Dennehy, Gabriel Byrne and Jeffrey "Ja Rule" Atkins in supporting roles. Note the whiff of prestige. Observe as well the pairing of a strong, menacing, above-the-law black

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killer with a younger, weaker, vacillating white cop—a combination that inescapably brings to mind Hawke's previous outing in such a role, in the Oscar-winning *Training Day*. Despite being sent out into the wasteland of January, despite having roots in grind houses, this *Assault on Precinct 13* expects to be taken seriously by at least some portion of the audience. You might even say it aspires to partake in an American "tradition of quality."

That latter, poisoned phrase was of course the boast of the French studio filmmakers of the 1950s, who provided such a useful enemy to the rising critics and directors of the New Wave. The ironies of history: Once upon a time, younger French cinephiles made room for themselves by tearing down their elders, which they did by promoting American action pictures over the supposed best work of their own country. The taste and ideas of these auteurists, when subsequently imported to America, taught people here to respect Sam Fuller, Nicholas Ray and (eventually) John Carpenter. And now a French producer (Pascal Caucheteux) and a French director (Jean-François Richet) have paid homage to Carpenter's earliest hit, imparting to the project the very artiness that the New Wave wanted to escape.

They have brought a decorative sensibility to *Assault on Precinct 13*. You see it in the pretty latticework that the bad guys create, when they poke their red laser beams into the darkened police station. You see it in clever-cute tracking shots, such as the one of cops and criminals pairing off to defend the entrances of the precinct house. And then there are the snowflakes, each as big as a horsefeather, which float through the backlit, piney woods of Detroit as *Assault on Precinct 13* climaxes in the killing of its ninth identifiable figure. Maybe tenth.

I lost count, because of all the people associated with this movie—Jean-François Richet, screenwriter James DeMonaco and no fewer than six producers—none thought it important to track the fates of all characters who have names and dialogue. I know, this movie is a shoot-'em-up, and convention decrees that the bad guys (who in this case are faceless behind armored masks) may drop as the autumn leaves. But did a cop die in that overturned van, or was he just soaked in blood? Did the bad guys really let Brian Dennehy go, or did they take him offscreen and shoot him (which is what I'd do, every time)? Convention decrees that these matters should not remain a mystery; and yet they go unresolved here, even though DeMonaco made time for Laurence Fishburne to articulate his views on the inevitability of death and the absence of God.

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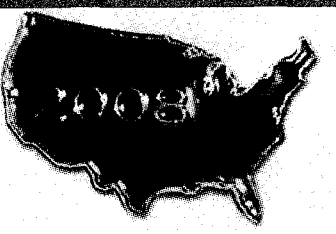

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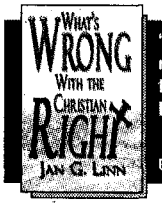

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In the tradition-of-quality action picture, the dialogue groans with philosophical weight, while the plot twists grind with improbability. (Exactly how did Brian Dennehy find apparent release in the bad guys' hands? Really, don't ask.) The women characters are no longer just blond-mopped expanses of thigh and cleavage; now they are strong and independent, so they can also *talk* about sex. As for the film's horsefeathery notion of Detroit: When a picture is expected to play for two or three weeks in nondescript multiplexes and then spend the rest of its life on DVD shelves, it may as well leave undefined all relationships of physical and social space.

I am making *Assault on Precinct 13* sound like a terrible movie. It's not. Ethan Hawke is good in his opening scene, as an undercover narcotics cop (and utterly unbelievable throughout the rest of the movie, when he's a tousle-headed desk sergeant); Laurence Fishburne delivers another of his carved-from-a-block-of-ebony performances, which is OK with me; and John Leguizamo stands out in the role of a junkie who has the bad luck to be in the precinct's lockup when the siege begins. (According to the press hand-outs, Leguizamo took the trouble to invent a back story for his character—something the writer and director hadn't thought to do—which explains why the movie seems three-dimensional when he's around.) Some of the action sequences are fun, too, particularly when the rag-tag defenders are first fighting off their robotic assailants; but Richet's invention soon flags. By the third time a gun-wielding heavy was brought low with an improvisatory thrust of a sharp object, the carnage had lost its gaiety for me.

Here, then, is today's overground action thriller: a picture whose raffishness, far from being inherent, amounts to a marketing tool, just like its choice of cast members (all of them known for better roles), its semaphoric appeals to be taken seriously, its French and auteurist pedigree. You could, if you chose, waste some time with it, especially in this empty month. But if you want to recapture just a little of the spirit of 1976, you'll have to buy a ticket to something else you want to see at the multiplex—*Million Dollar Baby*, *House of Flying Daggers*, *Hotel Rwanda*—and then afterward, for your double feature, sneak into *Assault on Precinct 13*.

But to prove that January is not just a dumping ground, let me tell you now about a genuinely small film that needs discovering, since it won't get much hype while it's in the theaters: Yaron Zilberman's beautiful and humane documentary *Watermarks*.

It's a portrait of half a dozen champion women athletes from 1930s Austria—all of them Jewish, all of them former members of the Hakoah Vienna Swim Club. Using a remarkably rich collection of archival sources and contemporary interviews, Zilberman reconstructs the story of how these women won national prominence before the Nazi rise to power, how they were then stripped of their honors (and much else) and how, through collective effort, they escaped after the *Anschluss* to England, Palestine and the United States. Every detail of the account is vivid and arresting; and that's only the first part of *Watermarks*.

For the climax of the film, Zilberman accompanies the surviving members of the swim club on a trip back to Vienna. They have not visited the city since the war, and many of the women have been out of touch for years. But they are a sharp-witted, candid lot, and they have no trouble sharing their feelings and opinions with one another, or with the camera, even at moments when they disagree. The breathtaking moment of the film, though, is the one that expresses their harmony, when they return to their old practice pool in Vienna and swim together one last time. They are in their 80s, and older; one of them is blind. Their grace and dignity as they disrobe and begin to glide through the pool are enough to make even a reviewer get misty.

Watermarks begins its US theatrical release on January 21 in New York City, at the Quad Cinemas. The film is distributed by Kino International. ■

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THE *NATION* DISCUSSION GROUP of the Inland Northwest is forming in the Cheney/Spokane area of eastern Washington. For information contact Gil Murray. Tel: (509) 235-1574; e-mail murraygil@aol.com.

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PUZZLE NO. 2973

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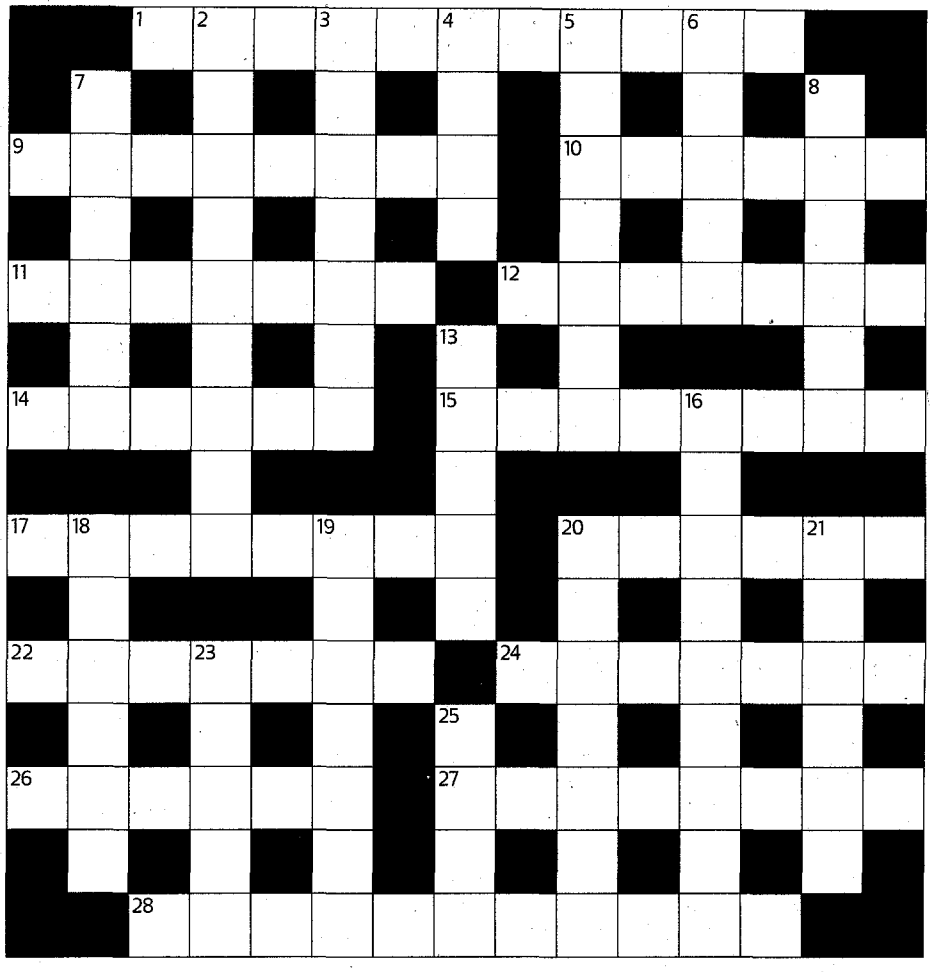

ACROSS

1 Evidently not the correct anesthetic, since you can't talk to the right person with it. (5,6)

9 You'll find it only in a little speck in your eye, but you certainly picked the right word for it! (3,5)

10 Just a little naughty, but the answer is queer, in part. (6)

11 Where kicking a bucket reputedly caused a hot time! (7)

12 The result is sour if one does, though seemingly placid if you show it there. (7)

14 An inspirational talk, which is something not long to be found today in Spain. (6)

15 Bunion caused by your being tired of walking? (8)

17 and **20** It's logical, as they say, as one gets up to argue the point. (6,2,6)

22 It's light and square, but it might help you get over the water. (7)

24 City where the joker, for example, gets one very loud. (7)

26 Elixir suggestive of Mary Jane, having a little bit that's charged. (6)

27 The looked-for future could be to search for gold. (8)

28 A showy manner, so it returns a modest abode into a bad finish. (11)

DOWN

2 and **23** The writer prefers not to get them, since right over the discharge leads to little mistakes. (9,5)

3 A bunch of flowers goes bad when a negative answer gets around. (7)

4 and **18** If you don't have it, you might not get any dope. (4-2-4)

5 Properly the place of leather? (7)

6 A seed of this is carefully moved. (5)

7 The sort of hobo who wears two rings has the sound of a babyish kind. (6)

8 and **21** The secretary who lingered over morning coffee might try to get a government post. (3,3,6)

13 Reputedly sweet flower of Scotland. (5)

16 Hold your own against what one does with the music of America? (5,2,2)

18 See 4

19 The kind of fiction that has a scenic makeup, to a point. (7)

20 What one may get from a computer sounds like a stronghold. (7)

21 See 8

23 See 2

25 A place for Johnny, if he's fast enough! (4)

PUZZLED? No more cross words. If you don't see why "Lures" are "Ground Rules" send for those of Mr. Lewis to: Puzzled, The Nation, 33 Irving Place, New York, NY 10003, or access our website at www.thenation.com/about/crossword.mhtml.

SOLUTION TO PUZZLE NO. 2972

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O	■	A	■	B	■	A	■	U	■	H	■	A	■	E
I	M	B	I	B	E	R	■	B	R	O	W	S	E	D
N	■	B	■	O	■	L	■	R	■	W	■	T	■	L
T	H	E	■	T	I	M	E	I	S	■	R	I	P	E
■	■	R	■	S	■	A	■	C	■	O	■	M	■	T
U	R	S	I	F	O	R	M	■	I	N	G	E	S	T
N	■	■	■	O	■	X	■	H	■	E	■	■	■	E
F	U	R	O	R	E	■	R	O	O	T	B	E	E	R
E	■	A	■	D	■	P	■	N	■	H	■	Y	■	■
I	N	T	O	■	B	R	I	D	G	E	■	E	G	O
G	■	T	■	D	■	E	■	U	■	D	■	L	■	N
N	O	R	M	A	N	S	■	R	I	O	T	A	C	T
E	■	A	■	Y	■	T	■	A	■	O	■	S	■	A
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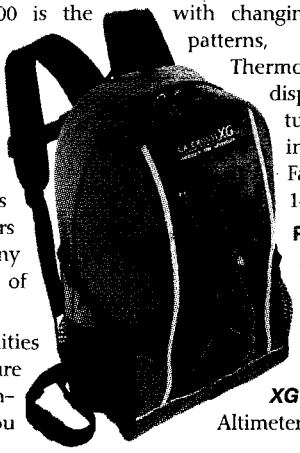

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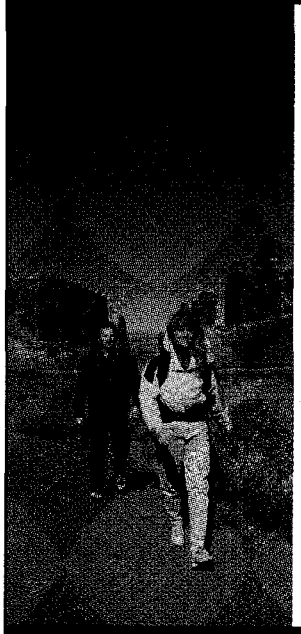

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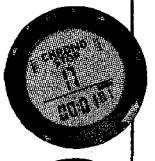

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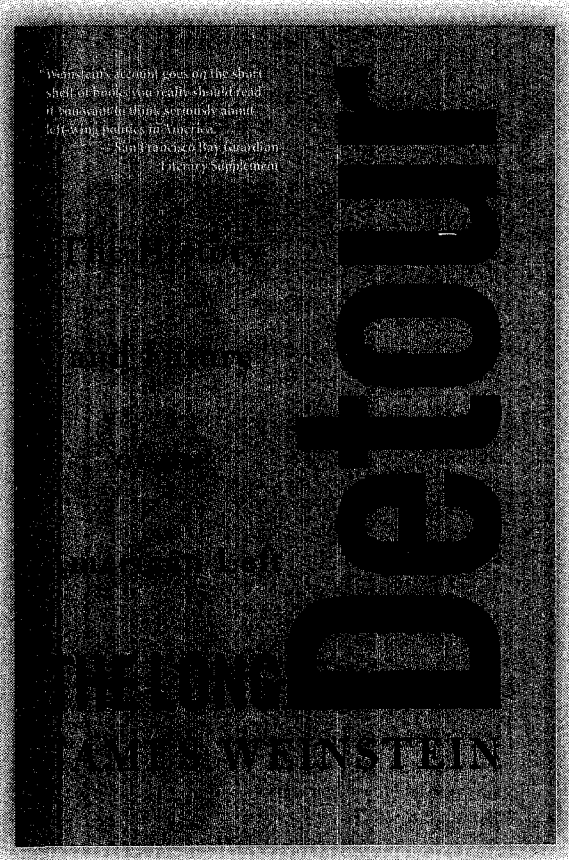
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